

*FINAL DRAFT – FOR PUBLIC DISTRIBUTION*

**BLIGHTED AND VACANT PROPERTY COMMITTEE**  
**Recommendations Report: Phase II Residential Property**

**EXECUTIVE SUMMARY**

**I. BACKGROUND**

The **Blighted and Vacant Property Ad-Hoc Committee** (Committee) was appointed by Mayor McClement to evaluate the current status of, and policies regarding, vacant and blighted commercial and residential properties in the city, and recommend policy initiatives (regulations and incentives) to encourage or require reasonable maintenance, occupancy, and reinvestment in such properties. That effort was broken into two phases: **1) commercial properties** and **2) residential properties**. The Report on Commercial Properties was issued in July, 2012. This report is on blighted and vacant residential properties.



The 15-member Committee is composed of residents, commercial and residential real estate brokers, non-profit representatives, and city staff as follows:

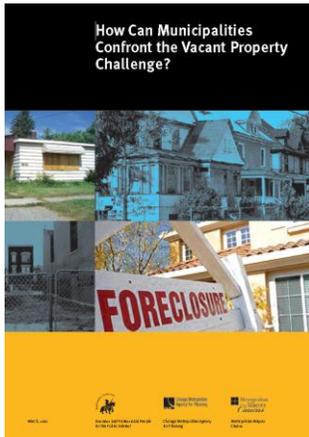
<b>Member</b>	<b>Representation</b>
Michael O'Connor	Aldermanic Liaison
Matthew Donahue	Resident
Robert Murray	Resident
Truby LaGarde	Resident (Alternate)
Steve Cranford	Commercial Broker
David Kaye	Commercial Broker
Kathryn Ann McKenzie	Residential Broker
Tamar Osterman	Frederick County Association of Realtors (FCAR)
Joe Fitzgibbons	Commercial Property Representative
Mike Bowersox	Commercial Property Representative
Kara Norman	Downtown Frederick Partnership
Richard Griffin	Economic Development (Committee Facilitator)
Brandon Mark	Planning Department
Rachel Depo	Legal Department
Dan Hoffman	Code Enforcement

The goal of the effort is to develop broad base support tools for the City to use to improve quality of life and economic health by reducing the number of long term residential vacancies and blighted properties.

To develop the recommendations herein, the Committee evaluated the following:

- **Best Practices**
  - National Vacant Properties Campaign
  - Codes, incentives, and programs from around the country
  - Metropolitan Mayors Caucus
  - Maryland Municipal League
  - International City/County Managers Association (ICMA)
  
- **Current Codes and Regulations**
  - Maryland foreclosure laws
  - Building Code
  - International Property Maintenance Code
  - Land Management Code
  
- **Current Housing Education Programs and Tax Credits**
  - Frederick Community Action Agency
  - Community Development Block Grant (CDBG) funds
  - State of Maryland Department of Housing and Community Development (DHCD)
  - Arts and Entertainment Rehabilitation Property Tax Credit
  - Job Creation and Investment Rehabilitation Property Tax Credit
  
- **Public Input**
  - Neighborhood Advisory Councils
  - Public attendance at committee meetings
  - Email & phone input
  - Response to media coverage
  
- **Local Residential Blight and Vacancy Data** – Number and geographic location of foreclosed, vacant, and blighted residential properties that have been cited by Code Enforcement for city code infractions.
  
- **Habitual Problem Properties** - Known long-term vacant/blighted properties.

## II. GENERAL OVERVIEW – RESIDENTIAL VACANCY & BLIGHT



Residential vacancy and blight is a national issue and local problem – including here in Frederick, Maryland. The problem, which is naturally occurring even during periods of low unemployment and a strong economy, is worsened considerably during recessionary periods like the most recent one. Mortgage foreclosure and property abandonment result in vacant, poorly maintained, and unsecured properties with little certainty as to the ultimate owner and responsible party. This leaves cities like Frederick scrambling to address the issue. Fortunately Frederick’s situation compared to its peers is less dire. Nonetheless, the issue has affected nearly every neighborhood in the city and in some cases is creating blighted conditions.

According to the **Metropolitan Mayors Caucus**, “[cities] are struggling through the worst foreclosure crisis since the Great Depression. Foreclosure is devastating for families who lose their homes. It is also devastating for communities. The severity of the challenge varies from neighborhood to neighborhood, but few are unaffected. In some communities, a few vacant properties with overgrown lawns and an accumulation of trash cause problems for neighbors. In others, more troubled buildings attract scavengers, squatters, and gangs, and lead to an increase in fires and crime. And in some communities with many foreclosed properties, the crisis threatens to doom the entire neighborhood to a cycle of disinvestment and decay. A cluster of vacant properties can destabilize a block. A cluster of troubled blocks can destabilize a neighborhood. The costs are substantial.” (March, 2010 – Metropolitan Mayors Caucus).

The same study reported that local governments can spend as much as \$34,000 on average to maintain and secure a vacant/blighted property. The challenge is multiplied because the foreclosure crisis drives up the need for local government services while driving down property values and reducing the number of homes paying property taxes. As a result, it has significantly reduced the resources governments have to address the challenge. The study offers several suggested tools that can be used by local governments to identify and address residential vacancy and blight including the following:

- Tool 1** Developing an Early Warning Database
- Tool 2** Identifying the Party Responsible for Property Maintenance
- Tool 3** Collaboration between Municipal Departments & Community
- Tool 4** Developing a Vacant Building Registry
- Tool 5** Targeting Resources
- Tool 6** Recovering Costs of Property Maintenance
- Tool 7** Receivership
- Tool 8** Acquiring Properties
- Tool 9** Demolishing Properties

The Committee considered these and other tools to develop a set of recommended strategies for Frederick to address residential vacancy and blight. The group reviewed housing data to understand the extent and location of the residential vacancy and blight issues in Frederick.

### III. **FREDERICK DATA ANALYSIS**

The following is a brief overview of the current extent of commercial vacancies and blight in the City of Frederick.

1. **2011 Home Sales Data (MRIS):** In 2011 there were 883 homes sold in the City of Frederick (City Zip Codes). Thirty two percent (285 units) were foreclosures and short sales. The remaining 598 (68%) were market rate sales. Foreclosure continues to be a major source of residential vacancy. As of the writing of this report there are **XX** units on the market in the city, of which **XX** are foreclosures and **XX** are short sales.

**2011 HOME SALES – CITY OF FREDERICK: Source: MRIS**

Type of Sale	# of Units	Percent of Total
Standard Sale	598	68%
Foreclosure	84	9%
Short Sale	201	23%
<b>Total</b>	<b>883</b>	<b>100%</b>



2. **Population & Housing Trends (City of Frederick Planning Department/US Census):** The population and number of housing units grew in the City of Frederick by 24% and 25% respectively between 2000 and 2010. Today there are nearly 28,000 housing units in the City of Frederick – split nearly evenly between multi-family (condos and apartments), townhouses/duplexes, and single-family detached units. Approximately 400 new units are constructed each year.

Total population	65,239	100
Average household size	2.5	(X)
<b>HOUSING OCCUPANCY</b>		
Total housing units	27,639	(X)
Occupied housing units	25,213	+/-1.3
Vacant housing units	2,426	+/-1.3
Homeowner vacancy rate	2.1	(X)
Rental vacancy rate	6	(X)

Total population	52,767	100
Total	2.42	
<b>HOUSING OCCUPANCY</b>		
Total housing units	22,106	100
Occupied housing units	20,891	94.5
Vacant housing units	1,215	5.5
Homeowner vacancy rate (percent)	2.7	(X)
Rental vacancy rate (percent)	5.3	(X)

Occupied housing units	25,213	(X)
Owner-occupied	14,817	+/-2.0
Renter-occupied	10,396	+/-2.0
Average household size of owner-occupied unit	2.57	(X)
Average household size of renter-occupied unit	2.28	(X)

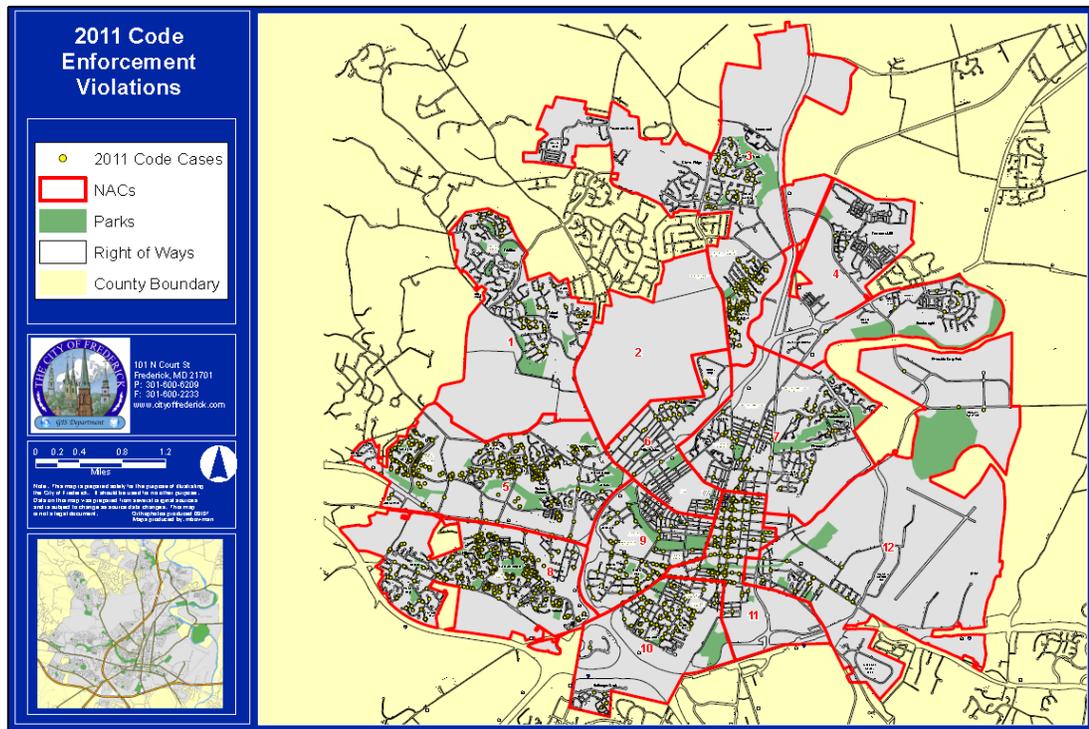
Occupied housing units	20,891	100
Owner-occupied housing units	11,624	55.6
Renter-occupied housing units	9,267	44.4
Average household size of owner-occupied unit	2.59	(X)
Average household size of renter-occupied unit	2.22	(X)

3. **Code Enforcement:** According to the City’s Department of Code Enforcement, there were 2,226 residential violations in 2011. The most significant number of violations were in NACs 8, 5, and 11. Most violations result in compliance with the Property Maintenance Code. However, vacant properties pose the most significant problems in terms of finding the owner – particularly in the instance of foreclosures. In FY12 (July 1, 2011 to June 30, 2012), the City Code Enforcement Department expended nearly \$50,000 securing and maintaining vacant and/or blighted properties.

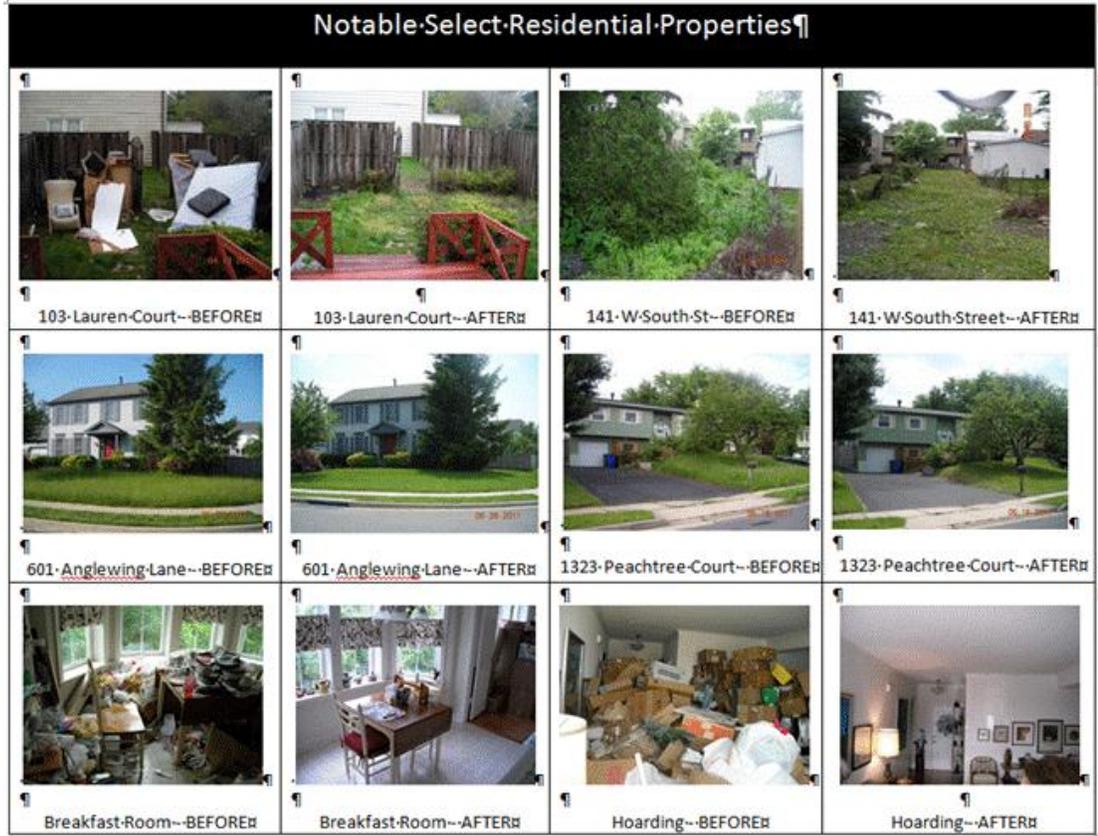
NAC#	RESIDENTIAL UNIT COUNT BY TYPE					2011 Violations	Units Per Violation	Rank By Violations	Rank By Units to Violations Ratio
	Apt	Condo	Single Family	Town House	TOTAL UNITS				
1	0	878	756	748	2,382	71	34	4	2
3	0	0	1,147	1,124	2,271	196	12	7	5
4	0	179	731	1,438	2,348	12	196	1	1
5	17	123	1,106	1,236	2,482	542	5	9	11
6	58	276	913	289	1,536	67	23	3	4
7	24	348	1,186	653	2,211	67	33	3	3
8	5	216	1,251	1,507	2,979	626	5	10	10
9	33	67	857	98	1,055	188	6	6	9
10	14	190	719	545	1,468	137	11	5	7
11	181	116	440	966	1,703	289	6	8	8
12	27	0	161	160	348	31	11	2	6
<b>TOTALS</b>	<b>359</b>	<b>2,393</b>	<b>9,267</b>	<b>8,764</b>	<b>20,783</b>	<b>2,226</b>	<b>28</b>		

(Source of Violation Data: Code Enforcement)

(Source of Residential Counts by NAC & Map: GIS Department)



4. **Notable Long Term Vacant and/or Blighted Buildings:** A review of the vacant commercial properties revealed a number of significant vacancies/blighted buildings. Concentrations of vacant buildings are found downtown and along the Golden Mile. Many of the downtown properties are under ownership of one or two property owners. Below is a sampling of such properties:



**IV. PRIMARY REASONS FOR RESIDENTIAL VACANCY AND BLIGHT**

The Committee identified the following general reasons for the cause of property vacancies and blight:

- Foreclosure by lender – (property owner unable to make payments)
- Unemployment & underemployment
- Mortgages which exceed owners ability to pay
- Abandonment of “under-water” Properties - (property owner is unable to sell for mortgage value and simply leaves)
- Absentee landlord not maintaining property (bank or rental ownership)
- Landlord and/or tenant not fully understanding property maintenance code requirements – lack of education on the primary reasons for code violations and how to maintain properties.



## **V. GENERAL FINDINGS**

After reviewing the data and best practices, the Committee has made the following findings:

- Long term vacant and blighted residential properties can impair an entire neighborhood and community as a whole including:
  - health, safety, and welfare
  - declining property values
  - nuisance issues like graffiti, trash, unsightliness, vandalism, loitering
  - homelessness
  - increased crime, fire, and calls for service
  - higher insurance rates in the area
- Frederick is fortunate to have an overall vacancy, blight, and foreclosure rate which is low relative to peer communities. This is in part due to lower unemployment rates than in the state or nation.
- Most residential vacancies are routine as homes are bought and sold in normal real estate “churn” cycle.
- Most vacant residential properties in Frederick are not blighted.
- Vacant residential properties which are in foreclosure are most likely to be cited for property maintenance violations and are hardest to bring into compliance.
- Depending on location, size, uniqueness, and neighborhood, it normally takes less than 12 months to sell a market rate home.
- Short sale homes may take many months to years.
- There are some very notable vacant and blighted residential properties which are long term, are not in the normal residential real-estate churn cycle, and in some cases are blighted.
- There are distinctions between “vacant” property and “blighted” property. Not all blighted properties are vacant and not all vacant properties are blighted.
- Vacant properties are at risk to become blighted if not secured, maintained, and leased within a reasonable period of time.
- Current City regulations are generally effective, but have not been enough to fully deter blight and long-term vacancies.
- The city should consider stronger code enforcement, stiffer penalties for habitual offenders, enhanced economic property tax incentives, and tools to force turn-over in property ownership for habitually blighted properties is desirable.
- There is a need for intermediate “tools” between code enforcement which is the option of first resort and eminent domain which is the option of last resort.

## VI. **DEFINITIONS**

After reviewing multiple definitions and ordinances from across the country, the committee reached consensus on the following definitions for “vacant” and “blighted” buildings:

**VACANT BUILDING:** A building, structure, or portion thereof in which there is no habitual presence of persons who have a legal right to be on the premises, or in which all lawful business or construction activity or residential occupancy has substantially ceased, or which is substantially devoid of contents. In the case of mixed-use buildings, a separate tenanted portion of the building which meets these criteria shall also be deemed vacant.

**BLIGHTED BUILDING:** Any building or portion thereof along with the lot on which it exists, shall be deemed blighted if the building or portion thereof:

- A. Is a serious or immediate danger to the health, safety, or general welfare of the community as determined by Code Enforcement, Building Inspector, or Health Department Inspector.
- B. Is not being maintained, is dilapidated, and is an attractive nuisance as documented by Code Enforcement or Building Inspector. The following factors may be considered:
  - Unsecured – public can gain entry without the consent of the owner and is therefore an attractive nuisance to children, vagrants, criminals, or other unauthorized persons;
  - missing or boarded windows or doors; collapsing or missing walls, roof or floors;
  - seriously damaged or missing siding;
  - structurally faulty foundation;
  - garbage, trash or abandoned/unregistered cars on the premises;
  - overgrown diseased, dead, or decayed trees, weeds, or vegetation;
  - un-maintained swimming pool, pond, or other body of water, graffiti;
  - fire damage
  - harbors or is likely to harbor rats, pigeons, vermin, and other animal nuisances
- C. Is habitually vacant for long periods unrelated to the normal commercial vacancy cycle.
- D. Is attracting illegal activity and calls for service as documented by the Police Department;
- E. Is a fire hazard as determined by the Fire Marshal, City Fire Protection Engineer, or as documented by the Fire Department;
- F. Is a factor creating a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other space within a residential or commercial neighborhood as documented by resident or business complaints, or cancellation of insurance on adjacent properties or increased cost for insurance.
- G. Is a partially constructed, reconstructed, or demolished building or structure upon which work is abandoned. Work is deemed abandoned when there is no valid or current building or demolition permit or when there has not been any substantial work on the project for a period of six consecutive months or more.

## **VII. CURRENT TOOLS ANALYSIS**

The Committee reviewed the following tools used by the City to address commercial vacancy and blight including:

- **Code Enforcement & Fines** – The City of Frederick has a Code Enforcement (CE) Department that enforces compliance with the City’s property maintenance code for both commercial and residential violations. The CE Department and maintain a list of violators by address and violation. Code Enforcement officers can cite a property owner for infractions which are visible from the exterior of a building and can enter a property when invited by a property owner or a tenant with a legal right to the facility. The department works closely with the police and fire departments which provides referrals to them for violations observed at a fire, crime scene, or call for service. Code Enforcement has also obtained administrative search warrants to inspect a building when major violations are documented but permission from the property owner is not provided.
- **Eminent Domain** – Generally, Eminent Domain is the inherent power of a governmental entity to take privately owned property and convert it to public use subject to the limitations of the Maryland Constitution as well as the US Constitution which require that “just compensation” be paid. Under Maryland and City law, the city may acquire and dispose of blighted properties that meet certain criteria. This can be a long and arduous process and should be used as a last resort.

The Committee determined that the current tools are not wholly sufficient to reduce residential vacancy, blight, and stabilize at-risk neighborhoods. Additionally, these tools represent the first and last efforts to address vacancy and blight – what is needed is a number of intermediate tools, both incentive and punitive.

## VIII. **RECOMMENDATIONS**

After reviewing the extent of the residential vacancy and blight problem in Frederick along with the current tools in place and range of tools available, the Committee recommends that the City develop additional tools to; 1) increase likelihood of voluntary property management (capital investment, maintenance and tenanting); 2) increased compliance with code enforcement actions; and 3), create an opportunity to force control of habitual vacant and/or blighted properties to a responsible third party. Specifically, the committee makes the following recommendations:

The group considered fiscal impact as follows and the recommendations are organized from that perspective. It is further noted, that cost is not a measure of the importance of the tool for implementation purpose:

**NO FISCAL IMPACT** – Little or no cost using existing resources/staff

**LIMITED FISCAL IMPACT** – There may be some limited cost/revenue

**SIGNIFICANT FISCAL IMPACT** – There is significant cost/revenue

**BLUE = REVENUE**

**RED = COST**

1. **Blighted Building Database:** Formalize and strengthen the Blighted Building Database already in use by Code Enforcement to track violations by address, neighborhood, type of violation, date of violation & mitigation, owner, # of violations, etc. Once a property has been determined “blighted” by Code Enforcement (based upon the blighted building definition), the property should be added to the Blighted Buildings Database. The database should track at a minimum all building and maintenance code violations and calls for service from police and fire. The purpose of this database is to document infractions and build a case for future enforcement actions if needed. This is not intended to be a self-registry and no fee is required. The property shall be removed from the Blighted Building Database once all violations are remedied and the property remains “blight” free for a period of twelve (12) consecutive months. **NO FISCAL IMPACT**
2. **Cross Training & Information Sharing:** In an effort to help build a case for action against habitually vacant or blighted properties, the City should formalize and strengthen interdepartmental data sharing and training regarding blight and code violations between Code Enforcement, Police, and Fire Department. **NO FISCAL IMPACT**
3. **Top 10 Blighted Residential Properties Blotter:** Coordinate with media to routinely advertise the Top 10 Blighted Residential Properties in the local news media (similar to restaurant inspections, alcohol enforcement violations, etc.) in an effort to place public scrutiny and pressure on the owners of habitually blighted property to maintain and rehabilitate properties. **NO FISCAL IMPACT**
4. **Voluntary Violation Remediation Program:** Develop a program in which a property owner can disclose code violations, develop a remediation plan, and bond for such improvements without fines or penalties. Non-performance within the designated time would result in all fines/penalties being levied. **NO FISCAL IMPACT**
5. **Housing Counseling:** Enhance and market housing counseling programs including, property owner and tenant responsibilities (Top 20 Common Code Violations), pre-foreclosure

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Intervention, & housing affordability (State & Local Gov, Non-Profit - FCAA) **LIMITED FISCAL IMPACT**

6. **Blighted Property - Nuisance Abatement State Legislation:** Support and implement state legislation being introduced during the 2013 Session by Senator Young which allows local government to declare blighted properties as a nuisance, require remediation, prevent leasing, require notification of nuisance to prospective buyers, and impose a fine equal to three times the amount of the local property tax on the subject property. (see appendix) **LIMITED FISCAL IMPACT**
7. **Escalating Fines:** Develop and adopt an Escalating Fine System for code enforcement violations so that habitual offenders with three or more code violations within 12 months pay more for each additional violation. **LIMITED FISCAL IMPACT**
8. **Lien or Fine Waiver:** Provide for a lien or fine waiver for the new owner of a blighted property who agrees to rehabilitate the residence by submitting a remediation plan to the appropriate city department and posting bonds equal to the renovation cost. The purpose of such waivers is to encourage new sustainable ownership by lowering upfront costs and thereby improving opportunities for reinvestment, renovation, and tenanting. The waiver also enables the seller relief from what could be a major financial burden and an impediment to selling the property. This creates a “win” for the seller, a “win” for the buyer, and a “win” for the city. **LIMITED FISCAL IMPACT**
9. **Frederick Blight and Vacancy SmartPhone App:** Coordinate with TechFrederick members to develop and market a Frederick Smart Phone app for voluntary public reporting of vacant & blighted properties to Code Enforcement. **LIMITED FISCAL IMPACT**
10. **Enhance Code Enforcement Resources:** Deploy enhanced Code Enforcement technology including iPads and mobile offices (vehicle mounted computers) with real-time mobile access to critical databases. **SIGNIFICANT FISCAL IMPACT**
11. **Targeted Reinvestment Zones/Tax Credits:** Develop targeted geographic Property Tax Credit Legislation modeled after the new Historic Preservation Property Tax Credit Program to create a financial incentive for property owners to invest in external & system improvements to homes in designated neighborhoods including (roof, siding, windows, porches, HVAC, Electrical, Water, Plumbing). The overriding purpose is to improve and maintain housing stock and strengthen neighborhoods. Property owners would receive a credit against city (and perhaps county) property taxes owed in the year of improvement. Critical neighborhoods would be designated by the Mayor and Board of Aldermen based on key criteria such as foreclosures, vacancy rate, blight, and age and condition of housing.. Program cost could be capped by property, year and neighborhood. Costs would be mitigated over time by higher property values/revenues over time. **SIGNIFICANT FISCAL IMPACT**
12. **Public Nuisance Receivership Program:** Develop a receivership program to allow blighted public nuisance property owners to be taken to court and forced to remediate code violations or have a court appointed “receiver” be given authority to renovate and/or sell the property. **SIGNIFICANT FISCAL IMPACT**
13. **Eminent Domain:** Develop and effectively market the process of Eminent Domain - the power of the government to take property for a public purpose. **SIGNIFICANT FISCAL IMPACT**

## OTHER OPTIONS DISCUSSED

- Land Banks
- Vacant Property Registry
- Rental Property Registry
- Donation of Foreclosed Properties to Non-Profits for Homeless Assistance
- OTHER??

**APPENDIX**

**Real Property -Blighted Property -Nuisance Abatement –**  
Proposed Legislation by Senator Ron Young

**A BILL ENTITLED**

1 AN ACT concerning

2 **Real Property – Blighted Property – Nuisance Abatement**

3 FOR the purpose of requiring the owner of a blighted property, on notification from  
4 the appropriate unit of local government, to remediate the property's code  
5 violations in a certain manner and within a certain period of time; authorizing  
6 the appropriate unit of local government to grant an extension of certain  
7 required time periods; prohibiting an owner of a blighted property from offering  
8 the property for lease until the property meets certain code requirements;  
9 authorizing the appropriate unit of a certain local government to declare a  
10 blighted property a nuisance and order the owner to abate the nuisance;  
11 requiring the appropriate unit of local government to grant a certain extension  
12 if, within a certain period of time, the owner lists the property for sale with a  
13 licensed real estate broker at a price that does not exceed a certain amount;  
14 requiring the owner to provide certain notice to potential buyers; authorizing  
15 the appropriate unit of local government to grant a certain additional extension;  
16 authorizing a local government to impose a fine equal to a certain amount under  
17 certain circumstances; requiring the new owner to remediate the property's code  
18 violations in a certain manner and within a certain period of time under certain  
19 circumstances; defining a certain term; and generally relating to nuisance  
20 abatement of blighted properties.

21 BY adding to

1 Article – Real Property  
2 Section 14–120.1  
3 Annotated Code of Maryland  
4 (2010 Replacement Volume and 2012 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Real Property**

8 **14–120.1.**

9 (A) IN THIS SECTION, “BLIGHTED PROPERTY” MEANS A PROPERTY  
10 THAT:

11 (1) HAS BEEN VACANT OR BOARDED FOR AT LEAST 1 YEAR;

12 (2) HAS BEEN THE SUBJECT OF NUISANCE COMPLAINTS; AND

13 (3) DOES NOT MEET THE REQUIREMENTS OF THE APPLICABLE  
14 LOCAL HOUSING CODE OR THE MINIMUM LIVABILITY CODE.

15 (B) (1) ON NOTIFICATION FROM THE APPROPRIATE UNIT OF LOCAL  
16 GOVERNMENT, THE OWNER OF A BLIGHTED PROPERTY SHALL REMEDIATE THE  
17 PROPERTY’S CODE VIOLATIONS BY:

18 (I) SUBMITTING A REMEDIATION PLAN FOR APPROVAL BY  
19 THE APPROPRIATE UNIT OF LOCAL GOVERNMENT ON A FORM PROVIDED BY THE  
20 APPROPRIATE UNIT;

21 (II) BEGINNING THE REMEDIATION WITHIN 30 DAYS AFTER  
22 THE PLAN IS APPROVED; AND

23 (III) COMPLETING THE REMEDIATION WITHIN 90 DAYS  
24 AFTER THE REMEDIATION HAS BEGUN.]

1                   **(2) THE APPROPRIATE UNIT OF LOCAL GOVERNMENT MAY GRANT**  
2 **AN EXTENSION OF THE TIME PERIODS REQUIRED FOR REMEDIATION UNDER**  
3 **PARAGRAPH (1)(II) OF THIS SUBSECTION.**

4                   **(3) AN OWNER OF A BLIGHTED PROPERTY MAY NOT OFFER THE**  
5 **PROPERTY FOR LEASE UNTIL THE PROPERTY MEETS THE REQUIREMENTS OF**  
6 **THE APPLICABLE LOCAL HOUSING CODE OR THE MINIMUM LIVABILITY CODE.**

7                   **(c) (1) IF AN OWNER OF A BLIGHTED PROPERTY VIOLATES**  
8 **SUBSECTION (B) OF THIS SECTION, THE APPROPRIATE UNIT OF LOCAL**  
9 **GOVERNMENT IN THE JURISDICTION IN WHICH THE BLIGHTED PROPERTY IS**  
10 **LOCATED MAY DECLARE THE PROPERTY A NUISANCE AND ORDER THE OWNER**  
11 **PROMPTLY TO ABATE THE NUISANCE.**

12                   **(2) (i) THE APPROPRIATE UNIT OF LOCAL GOVERNMENT**  
13 **SHALL GRANT THE OWNER OF A BLIGHTED PROPERTY A 6-MONTH EXTENSION**  
14 **FOR COMPLIANCE WITH AN ORDER ISSUED UNDER PARAGRAPH (1) OF THIS**  
15 **SUBSECTION IF, WITHIN 30 DAYS AFTER RECEIVING THE ORDER ISSUED UNDER**  
16 **PARAGRAPH (1) OF THIS SUBSECTION, THE OWNER LISTS THE PROPERTY FOR**  
17 **SALE:**

18                                   **1. WITH A REAL ESTATE BROKER LICENSED UNDER**  
19 **TITLE 17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND**

20                                   **2. AT A LISTING PRICE THAT DOES NOT EXCEED THE**  
21 **HIGHER OF THE VALUE OF THE PROPERTY AS ASSESSED FOR THE PURPOSES OF**  
22 **APPLYING PROPERTY TAX OR AS ASSESSED WITHIN THE PAST YEAR BY A REAL**  
23 **ESTATE APPRAISER LICENSED UNDER TITLE 16 OF THE BUSINESS**  
24 **OCCUPATIONS AND PROFESSIONS ARTICLE.**

25                                   **(II) IN ADDITION TO AN EXTENSION GRANTED UNDER**  
26 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE APPROPRIATE UNIT OF LOCAL**  
27 **GOVERNMENT MAY APPROVE AN ADDITIONAL REASONABLE EXTENSION FOR**  
28 **THE OWNER TO CONCLUDE SETTLEMENT OF THE SALE OF THE BLIGHTED**  
29 **PROPERTY.**

30                                   **(III) IF AN OWNER OF BLIGHTED PROPERTY LISTS THE**  
31 **PROPERTY FOR SALE, THE OWNER SHALL PROVIDE WRITTEN NOTICE TO**

1 POTENTIAL BUYERS THAT THE PROPERTY HAS BEEN DECLARED A NUISANCE  
2 AND THE OWNER HAS BEEN ORDERED TO ABATE THE NUISANCE.

3 (3) UNLESS THE PROPERTY IS SOLD IN ACCORDANCE WITH  
4 PARAGRAPH (2) OF THIS SECTION, IF THE OWNER OF A BLIGHTED PROPERTY  
5 FAILS TO COMPLY WITH AN ORDER ISSUED UNDER THIS SECTION BY A LOCAL  
6 GOVERNMENT TO ABATE A NUISANCE, THE LOCAL GOVERNMENT MAY IMPOSE A  
7 FINE ON THE OWNER EQUAL TO THREE TIMES THE AMOUNT OF THE LOCAL  
8 PROPERTY TAX IMPOSED ON THE PROPERTY.

9 (4) IF THE PROPERTY IS SOLD UNDER PARAGRAPH (2) OF THIS  
10 SUBSECTION, THE NEW OWNER, ON SETTLEMENT, SHALL REMEDIATE THE  
11 PROPERTY'S CODE VIOLATIONS IN THE MANNER REQUIRED UNDER SUBSECTION  
12 (B)(1) OF THIS SECTION.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2013.



# United States Foreclosure Laws

(December 3, 2012)

## Quick Facts

- Judicial Foreclosure Available: **Yes**
- Non-Judicial Foreclosure Available: **Yes, with restrictions**
- Primary Security Instruments: **Deed of Trust, Mortgage**
- Timeline: **Typically 90 days**
- Right of Redemption: **No**
- Deficiency Judgments Allowed: **Yes**

In Maryland, lenders may foreclose on a mortgage or deed of trust in default using either the judicial, assent to decree, or non-judicial foreclosure process.

### Judicial Foreclosure

In cases where the security instrument contains neither a power of sale nor an assent to a decree, a lender must file a complaint against the borrower and obtain a decree of sale from a court having jurisdiction in the county where the property is located before foreclosure proceedings can begin. The court will then determine whether a default has occurred.

If the court finds that a default has occurred it shall: 1) fix the amount of the debt, interest, and costs then due; and 2) provide a reasonable time within which payment may be made. The court may order that if payment is not made within the time fixed in the order, the property must be sold to satisfy the debt.

### Assent To Decree Foreclosure

Assent to a decree foreclosure is used when a provision in the security document declares an assent to the entry of an order for the sale of the property upon a specified default. Lenders who use the assent to decree foreclosure must file a complaint to foreclose. However, it is not necessary for a hearing to be held prior to the foreclosure sale.

### Non-Judicial Foreclosure

The non-judicial process of foreclosure is used when a power of sale clause exists in a mortgage or deed of trust. A "power of sale" clause is the clause in a deed of trust or mortgage, in which the borrower pre-authorizes the sale of property to pay off the balance on a loan in the event of their default. In deeds of trust or mortgages where a power of sale exists, the power given to the lender to sell the property may be executed by the lender or their representative, typically referred to as the trustee.

Despite the permission given in the power of sale clause, lenders in Maryland must still file an order to docket before foreclosure proceedings can begin. However, it is not necessary for a hearing to be held prior to the foreclosure sale.

### Foreclosure Guidelines

Unless otherwise stated in the original loan document or ordered by the court, the following guidelines must be adhered to in any foreclosure proceedings:

1. A notice of sale must be published in a newspaper of general circulation in the county where the property resides at least once a week for three (3) successive weeks, with the first publication to be not less than fifteen (15) days prior to sale and the last publication to be not more than one week prior to sale. The notice of sale must also be sent by certified

and by registered mail, not more than thirty (30) days and not less than ten (10) days before the date of the sale, to the borrower at their last known address.

2. The sale must be conducted by the person authorized to make the sale (i.e. trustee, sheriff) and may take place immediately outside the courthouse entrance, on the property itself or the location advertised in the notice of sale, if different. The terms of the sale vary by process.
3. If the sale is postponed, notice of the new date of sale shall be published in the manner the original notice of sale was given.
4. Within thirty (30) days after the sale, the person authorized to make the sale must file a complete report of the sale with the court. The clerk of the court will then issue a notice containing a brief description to identify the property and stating that the sale will be ratified unless cause to the contrary is shown within 30 days after the date of the notice. A copy of the notice shall be published at least once a week in each of three successive weeks before the expiration of the 30-day period in one or more newspapers of general circulation in the county in which the report of sale was filed.
5. Lenders have a period of three (3) years to file for a deficiency judgment, but it is limited to the balance of the loan in default after the foreclosure sale proceeds have been applied.

**Note:** One of the biggest issues identified by the Blighted and Vacant Property Committee in its discussions with residents and code enforcement officials is that of finding the responsible party when a foreclosure or abandonment occurs.

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## MARYLAND BAR ASSOCIATION - FORECLOSURE PROCEEDINGS IN MARYLAND (June 2008)

Receiving notice that your house is about to be foreclosed upon is one of the most traumatic things you can go through. However, when you sign your mortgage or deed of trust at the real estate closing and it is recorded in your County's Land Records office, you give your lender the right to foreclose on the property if you default on the loan or fail to repay the loan according to the terms of the loan. A new foreclosure law went into effect in Maryland on April 4, 2008 and any foreclosure action filed after that date must comply with the new law. The foreclosure process and your rights in that process under the new law are outlined below.

### WHAT WILL HAPPEN IF MY PROPERTY IS GOING INTO FORECLOSURE?

#### Before the foreclosure is filed

Before a foreclosure action is filed, you as the borrower and property owner should have received notice from the lender that there is a problem with your loan account and from the lender's attorney that there is a default under the terms of the loan. Many mortgages require the lender to give notice of the default and of your right to remedy the default before filing foreclosure. Do not ignore or delay in responding to any written communication from your mortgage lender. The sooner you contact your lender, the greater the chance you can work out a solution to your situation.

In Maryland, before the lender can file a foreclosure case against your property, the lender must:

- Wait 90 days from the date that your loan is in default; and
- Send you a Notice of Intent to Foreclose 45 days before the foreclosure case is filed.
  - The Notice of Intent to Foreclose will provide you with important information about why your loan is in default, the amount you owe to bring your loan current, the last payment received, contact information for the lender or secured party, for the mortgage servicer that collects your mortgage payments and for the department that can help you work out your default (the loss mitigation department).

#### Filing the foreclosure case

To begin a foreclosure case, the lender must file the foreclosure with the Circuit Court in the county in which the property is located. The lender must file the following documents with the court:

- Statement of debt, under oath, which itemizes the entire amount the lender claims is due under the loan. This will usually include principal, interest, late charges, attorneys' fees and all other charges that the borrower is responsible for under the mortgage;
- Certification that the property owner is not a member of the military service. Under a federal law, commonly known as the Soldiers' and Sailors' Civil Relief Act, members of the military service have specific rights when lawsuits are brought against them (including foreclosure proceedings) since they may not be in the U.S. due to a military assignment and unable to adequately defend their interests;
  - *If you are a member of the military service and find a property owned by you is the subject of a foreclosure action, you should ask an attorney what additional rights you may have as a result of this federal statute.*
- Statement, under oath, that indicates the date of default, the nature of the default and the date the Notice of Intent to Foreclose was sent;

- A copy of the Notice of Intent to Foreclose;
- Original or certified copy of the mortgage or deed of trust;
- Copy of the debt instrument and an affidavit of ownership;
- Original or certified copy of the assignment of the mortgage if applicable;
- The mortgage lender and originator's license number if applicable; and
- A uniform Notice regarding the filing of the foreclosure action

### **Serving the Property Owner**

The lender must personally serve you with all the papers filed when the case was docketed with the court. If the lender is unable to serve you after two good faith attempts on two separate days, the lender may file an affidavit with the court describing the attempts made to serve you and the lender may then serve you by sending you a copy of the court papers, by both certified and first class mail AND by posting the court papers on the property.

### **Before a Foreclosure Sale can be held**

Before a foreclosure sale can be held, the lender must:

- Wait 45 days from the time the defendant was served.
- Publish a Notice of Sale for three successive weeks in a newspaper of general circulation in the county where the action is pending. The first advertisement should be published not less than 15 days prior to the date of sale and the last advertisement should be published not more than 7 days prior to the date of sale.
- Send a notice of the date of sale to the homeowner by certified and first class mail of the time, place, and terms of the pending foreclosure sale. This notice must be sent no later than 10 days prior to the scheduled sale date. Failure to receive the notice or to sign for it will **not** stop the foreclosure.
- Accept from the homeowner payment of the funds due to cure the default up to one business day before the sale. Payment of this amount which includes missed payments, late fees and costs will stop the foreclosure sale if it is made one business day before the sale.
  - Note: The secured party or the agent must provide, upon request, the amount necessary to cure the default and reinstate the loan and instructions for delivering the payment

### **IS IT TOO LATE TO PREVENT THE SALE OF MY PROPERTY?**

When you are facing foreclosure, it does not mean that all hope of saving your property is lost. If you have not spoken with your lender, contact your lender **immediately** and ask for the loss mitigation department of your lender to determine if your default can be cured under a plan.

Before the sale occurs, you have the right to go before the court to prove that you did not default on your loan and stop the sale. You may also go before the court to ask that the sale be stopped if you can prove that the lender committed fraud in obtaining the mortgage or they have violated certain laws when your mortgage was made. You may also have rights and defenses if the lender fails to follow the requirements of the foreclosure law. You should consult an attorney for advice and assistance if you believe you have a defense to the foreclosure.

If your lender is unwilling to work with you, filing a Chapter 7 or 13 petition in bankruptcy may be beneficial. A bankruptcy filing before the sale will stay or stop the sale. Filing bankruptcy after the hammer comes down at the auction will lose the house unless the sale was improperly conducted **and** you timely object to ratification. Generally, a Chapter 7 filing will provide you with a three-month opportunity to cure your default and, if you can afford your mortgage and a plan payment, a Chapter 13 filing will give you up to five years to bring your mortgage current

and pay other debts once the plan is confirmed. Filing a bankruptcy petition is complex; credit counseling is required and most attorneys need three or four days to do so.

If someone approaches you to help stop your foreclosure, have any documents given to you reviewed carefully before you sign them or before you give any money to anyone. If you need help, contact the State's HOPE hotline at 877-462-7555 to get help from its foreclosure prevention assistance network and nonprofit housing counselors throughout the state.

### **SALE OF THE PROPERTY**

If a sale does take place, the property will be sold through a public auction open to anyone who desires to make a bid. Public auctions are usually held on the property or at the courthouse in the county where the property is located. The trustee must make a report regarding the sale to the court including an accounting of the sale. After the sale has taken place, but before the court has ratified the sale, you may file objections if the sale was improperly conducted. Only after the court ratifies the sale can the new owner petition the court to have you evicted from the property if you are still living there.

*The Public Awareness Committee of the Maryland State Bar Association has prepared this information. It is intended to inform the public and not serve as legal advice.*

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