

COMMONWEALTH OF VIRGINIA

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VIRGINIA HOUSING COMMISSION

Derelict Structures Work Group Meeting

9:00 House Room D

June 24, 2008

Members Present:

Senator Mamie Locke- Chair
Delegate Terrie Suit
Delegate Rosalyn Dance
Mark Flynn
Ted McCormack
Emory Rodgers
Chip Dicks
Bill Ernst
Martha Ann Creecy
Dana Fenton
David Freeman
Joseph Schilling
Rick Witt
Bill Shelton

Invited Guests:

Delegate Jennifer McClellan
Rachel Flynn, Director of Community Development, City of Richmond

- **Senator Locke** called the meeting to order at 9:03 a.m. She commented that the issue of derelict structures is an important one in many Virginia communities, and thanked the work group members for their participation.
- The first speaker was **Joseph Schilling**, of the Metropolitan Institute, Virginia Tech.
 - **Mr. Schilling** is a founding member of National Vacant Properties Campaign (NVPC).
 - Vacant properties create challenges in Virginia and across the country.

DELEGATE JOHN A. COSGROVE
DELEGATE ROBERT D. HULL
DELEGATE DANIEL W. MARSHALL, III
DELEGATE ROSALYN R. DANCE
DELEGATE TERRIE L. SUIT

SENATOR MAMIE E. LOCKE
SENATOR JOHN C. WATKINS
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI
F. ANDREW HEATWOLE
T. K. SOMANATH

- Some insights have been learned over last 5 years:
 - The foreclosure problems have had a large impact on vacant properties.
 - This is an emergency management issue, because blight and abandonment is contagious. We want to contain it, but in some communities this is not possible.
- NVPC was launched in 2003 with the help of Fannie Mae, EPA, Ford and Surdna Foundations. The executive committee is made up of Smart Growth America, Local Initiative Support Corporation, Virginia Tech's Metropolitan Institute, and the Genesee Institute in Flint, Michigan.
 - The campaign has been holding forums to talk about the issue of abandoned properties.
 - A national forum on reclaiming vacant properties was held in 2007, and over 600 people attended this forum.
 - NVPC provides technical assistance by going into the field and working with localities to draft strategies and tools for local governments.
 - The campaign has worked in Richmond, Portsmouth, and Petersburg.
- There is a wide continuum of abandonment, from substandard housing to an unoccupied, vacant lot. Along this continuum are increased levels of owner neglect and market weakness.
- Vacant lots are not just a city issue, but a rural issue as well. It is a regional issue and a nationwide challenge.
- Vacant properties cause trash and blight.
- How many vacant properties are there?
 - There exists no sufficient and reliable data to really track this, but a Brookings 2004 study estimates about 15% of urban city land is vacant.
 - The post office began keeping data on non-deliverable addresses.
 - A few cities have created real property information systems, such as Philadelphia and Minneapolis.
- The "roots of abandonment" are important.
 - Behind every vacant property there is a story, and the challenge is to find out what this story is.
 - Is the property vacant as a result of regional growth, sprawl, foreclosure, predatory lending, or the driving out of neighborhoods because of racial discrimination or the quality of schools?
 - There are a variety of issues that are at the roots of the vacant properties
- Costs:
 - The state of Ohio loses 60 million each year because of vacant properties.
 - There are costs related to personal health and property values, etc.
- Some observations:
 - No one owns this issue.
 - A variety of local and state levels must deal with derelict structures.
 - The issue is complex; because no one owns it, no one understands where to start.
 - The problem is not victimless, because there is a cost to communities and individuals.

- There are benefits of vacant property reclamation, which include greater housing choices, crime reduction, and rebuilding and redevelopment.
- Under current practice, the issue is governed by state and local levels, but these levels will most likely soon be turning to the Federal government for assistance.
 - There is a lack of strategy and coordination, but there are some innovators, such as Baltimore and Philadelphia organizations.
 - Local governments cannot handle these issues alone, partnerships are critical, such as community development corporations (CDC's) and Community Based Organizations (CBO's).
- The key is to have different tools at the prevention stage; some neighborhoods might need stronger measures than others.
- A Federal agenda has recently emerged.
 - There is pending legislation, such as the Neighborhood Stabilization Acts, the Hope VI Improvement and Reauthorization Act, and Brownfields reauthorization.
- NVPC's future agenda includes:
 - technical assistance efforts
 - foreclosure workshops
 - a national conference
 - a focus on the connection between local government strategy and tools, and state policies.
- **Senator Locke** asked if there were any questions for **Mr. Schilling**.
 - **Chip Dicks** asked whether there is a definite definition of a derelict structure. Is it a vacant property, and if so, at what point does a property become vacant?
 - **Mr. Schilling** responded that the definitions vary depending upon the type of property and the tool used to handle the situation.
 - In some cases, the property may only be vacant for 60-90 days. This would require registration.
 - By contrast, an abandoned property is a public nuisance and has a different definition from a vacant property. Abandoned properties allow for spot blight or nuisance abatement.
 - **Mr. Dicks** asked if Mr. Schilling could provide the work group with samples of the various definitions from other areas, noting that the General Assembly has dealt with blight over the past ten years but still struggles with the definitions, and that there is often a different view of what remedies should be included.
 - **Mr. Schilling** responded that he will provide the work group with some examples of definitions.
 - **David Freeman** noted that in Norfolk, there are major corridors of houses that are vacant and get boarded up, and that these homes could be rehabilitated. These properties that are boarded up lead to graffiti, trash, crime, etc. Is there any classification for these types of units?
 - **Mr. Schilling** responded that this is a classic example of a vacant property that has become a derelict structure, a property that has become a public nuisance. Even if the property is boarded and maintained to some degree, it becomes attractive for transients and criminal activity.
 - **Mr. Freeman** then asked if this would be defined as a derelict structure.

- **Mr. Schilling** responded that although there is not really one definition, but rather a continuum, this example is probably considered a derelict structure because it is a public nuisance.
 - **Senator Locke** noted that part of the work group’s responsibility is to determine these definitions along the continuum
 - **Martha Ann Creecy** noted that there are too many definitions; regardless, these buildings are a tax burden and detrimental to neighborhoods.
- The next speaker was **Bill Ernst, VHCD**, who discussed current techniques available to local governments for dealing with these issues.
 - **Mr. Ernst** first noted that VHCD created a summary chart outlining the different definitions and techniques currently used, and how they relate to one another. (*Note: This chart is currently available on the Virginia Housing Commission website, along with the other materials from the work group meeting.*)
 - DHCD is in the process of identifying tools that local governments need to combat derelict structures effectively.
 - The organization is seeking joint resolutions, which will give special attention to vacant properties in dense urban settings while still considering property owners’ rights.
 - This is not just an issue for cities. With increasing foreclosures, there are more properties that are vacant, tax delinquent, and which might cause blight.
 - Many of these properties are “orphans,” caught in limbo of various stages of foreclosure.
 - The neighbors of these properties have many concerns, including unkempt lawns and peeling of paint, declining member fees, crime, environmental hazards, theft (of wires and other supplies), and stagnant pools causing mosquitoes.
 - Title 15.2 currently grants authority to local governments to abate nuisances.
 - These include judicial and administrative steps to address weeds, structural problems, substances or conditions found on property that present threat to life, property, public health and safety.
 - Localities can recover the cost of taking remedial action, and may apply liens against property.
 - Localities have grants of authority to respond to special types of blight.
 - These remedies deal with a specific property problem, such as a threat to health, drug related activities on the property, or alcohol related nuisances (which may also involve the ABC).
 - There are certain notice provisions, and there must be an opportunity to charge the owner, or place liens on the property.
 - There are also procedures for tax delinquent properties.
 - If these properties are vacant and in poor repair, it represents a cost to the locality.
 - These structures shrink the very resources needed to respond to their presence.
 - **Delegate Suit** asked whether a locality can foreclose on a property if taxes and liens go unpaid.

- **Mr. Ernst** responded that this presents a problem often encountered in local governments, because the cost of going through the foreclosure process exceeds the accumulation of unpaid funds.
- **Mark Flynn** added that local governments have to wait for three years of accumulation of unpaid taxes, and then there is a process to allow forgiveness of tax liens, so it can be done but, having it derive enough money to make it work, is a problem.
- **Delegate Suit** then asked if local governments can foreclose in the form of a tax sale.
- **Mr. Ernst** replied in the affirmative.
- Vacant property registration authority exists in some form for local governments.
 - This is available only to cities and part of town of Pulaski.
 - Cities can levy a registration fee of up to \$25.
 - Cities can levy fines up to \$250 for noncompliance of the registration ordinance.
 - More localities might be interested in identifying properties that are vacant for more than a year.
- There are also spot blight procedures, enacted by the General Assembly in 1994.
 - These provide localities, with or without redevelopment authorities, with the power to respond to individual properties.
 - The procedures allow for acquisition and demolition of such properties, and take a proactive stance with critical properties to eliminate future blight in a community that is on the edge.
 - There are extensive notice provisions and review processes that must be followed, and the acquisition of occupied properties is prohibited.
- Local housing and redevelopment authorities may establish redevelopment areas and conservation areas.
 - These authorities retain power to acquire blighted properties, subject to some procedural reforms of 2006.
 - However, because of the recent eminent domain statutes, the ability of authorities will be limited; they will no longer be allowed to acquire individual properties through condemnation. They will still have spot blight authority to deal with these properties.
- There is also a derelict structures fund.
 - The fund was set up in 1999, and provides grants to localities, but this represents a small amount of funding (only about \$500,000 a year).
 - The funds are for removing or repairing derelict structures.
- Part 3 of Uniform Statewide Building Code provides an optional set of regulations involved in overall building.
 - This is a set of regulations to ensure building remains safe, and facilitates the reuse of properties,
 - The building code contains provisions for operation of rental inspection programs, determining the safety of the building, etc.

- However, some health and safety standards are different than the building code, so other aspects of property may still be perceived as blighted even if in compliance with the building code.
 - To summarize:
 - There is no single “magic bullet,” no uniform set of tools available to everyone to deal with these issues.
 - All of the terms interrelate in the statutes; the blighted definition in the eminent domain statute, for example, is more restrictive than it is in the redevelopment statute.
 - The work group should pay specific attention to the definitions in the statutes. Title 36 provides a definition of derelict structure but it is not a specific definition.
- The next speaker was **Rachel Flynn**, Community Development, City of Richmond.
 - **Ms. Flynn** emphasized two points:
 - The definition of blight was changed, and the new definition makes it more difficult to go to court or deal with local legislative body. Either the word “dilapidated” or “deteriorated” should be put back in the definition to better identify these properties.
 - The amount of liens for the registration of vacant properties should be increased from \$25 to at least \$100 per house or unit, with more charged each year so there is a disincentive to owning these properties.
- The fourth speaker was **Delegate Jennifer McClellan**, to discuss HB 331, HB 332, and HB 1008.
 - **Delegate McClellan** introduced Richmond City Councilman **Chris Hilbert**, who represents the north side of the city of Richmond.
 - **Mr. Hilbert** emphasized that there are over 3000 vacant buildings in city of Richmond.
 - The government needs to help citizens, not give incentives for them to keep the properties.
 - The cities need legislative authority to get rid of properties, and the process should be shortened, because it currently takes months.
 - Cities are dealing with the willful neglect of properties by individuals who do not live in state, such as out of town absentee landlords.
 - **Delegate McClellan** next introduced Richmond City Councilwoman **Kathy Graziano**.
 - **Ms. Graziano** noted that the blighted problem is not just in inner cities.
 - It ruins a neighborhood, because people can’t sell their houses, so they rent them out, and this creates a domino effect; in 5 years, a neighborhood goes in the wrong direction.
 - This issue also raises the problem of income. When a structure is derelict, the city has to assess it at face value, so there is no tax money coming from these buildings and no incentive for owners to do something about them. The city

wants to be able to assess the buildings at what they would be worth if they were in good shape.

- **Delegate McClellan** then noted the following:
 - HB 332 would shorten the time it takes to abate blighted property.
 - HB 331 would prohibit property owner from benefiting from the properties by providing an alternative procedure for dealing with blighted properties when the owner fails to respond within 30 days (of the determination that the property is blighted) with a spot blight abatement plan.
 - HB 1008 would create a special tax on these structures.
- She wants to give localities more tools to deal with blight, she is willing to talk to any stakeholder; the goal is to fight the problem.
- **Senator Locke** asked whether there were any other issues or questions.
 - **Delegate Suit** commented that the toughest job is to make policy that is balanced and considers all intended as well as unintended consequences. We need to create tools, but we also need to take the time to see how it will affect someone who does not intend for their property to go abandoned. If the legislation is not balanced, it won't make it through the General Assembly.
 - The work group should consider all alternatives and figure the most balanced approach.
- **Senator Locke** asked whether there were any further comments or questions from audience.
 - **Rachel Flynn** noted that seven blocks from the capital, there is blighted property but the city cannot use spot blight tools because of the change in the definition.
- **Senator Locke** closed by saying that the work group will continue to meet this summer and in the fall. As issues come forward, they should be sent to the work group for further discussion. The goal of the work group is to come up with balanced and reasoned approaches to address the issues.
- The meeting adjourned at 9:58 a.m.