Fighting Blight in Albany and Schenectady:

A Report and Policy Considerations

Elizabeth Bearese, Alexander Tesoriero, Jasmine Zeng,
Phillip Suruda, Erica Bejleri, and Glenna Morgan

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A Joint Report by Students of Albany Law School
and the University at Albany

Albany Law School
Government Law Center

Center for Technology in Government
University at Albany State University of New York

Rockefeller College of Public Affairs & Policy
University at Albany State University of New York
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EXECUTIVE SUMMARY

This report presents the results of an examination of the impact of blight in the cities of Albany and Schenectady, New York, the information barriers that prevent the two cities from efficiently and effectively treating their respective blighted areas, a process for Albany and Schenectady to take advantage of a strategy already shown to be effective in combating blight, and additional initiatives that complement existing strategies in place to meet the needs of each city. It outlines a series of mechanisms—collectively, a portfolio—that the cities can undertake to address blight.

This report contains the following sections: an executive summary; Part 1, an introduction; Part 2, a description of the state of blight in the cities of Albany and Schenectady; Part 3, a review of some of the data and process obstacles to fighting blight; Part 4, a description of an existing legal strategy available to the cities to combat blight; Part 5, a description of several additional strategies used by other cities to consider when it comes to financing anti-blight efforts, and Part 6, our conclusions.

Part 2 addresses existing legal strategies available to Albany and Schenectady. This section first analyzes the negative side effects of blight as well as the adverse impact that it has on the city or municipality, both economically and socially. It further discusses the potential benefits of combatting urban blight. Additionally, this section illustrates the estimated current economic impact blight is having on the cities of Schenectady and Albany.

Part 3 addresses the data and process obstacles to fighting blight. To identify these obstacles, in-depth interviews with key officials, such as Corporation Counsel attorneys and Code Enforcement Officers, in both Albany and Schenectady, were conducted. Questions asked during these interviews include: what scenarios cause the most blight in your city; what information do you need to make a decision on a property; what questions do you need to have answered before you can take any action; where do you find this information; do you trust the information that you find; and what are the challenges to getting the information. Understanding the Corporation Counsel and Code Enforcement processes on fighting blight additionally provided insight into these obstacles.

Based on our interviews and research on the twenty-three vacant properties assigned, we identified three primary data elements needed for Corporation Counsel to take legal action: (1) owner information; (2) tax status; and (3) mortgage status. The two primary data challenges faced were: (1) data accessibility; and (2) data quality. The three primary vacant property scenarios are: (1) disinterested investor; (2) zombie property; and (3) deceased owner. The three primary data elements required for legal action, in conjunction with the two primary data
challenges faced, created barriers to solving the three primary vacant property scenarios. Still, the team has made observations and recommendations for improving vacant property data collection and maintenance, including improved data sharing within city government as well as across different levels of government.

Part 4 outlines the use of an underutilized method of fighting blight: Real Property Actions and Proceedings Law Article 19-A (“Art. 19-A”). Art. 19-A allows for the city or municipality in which an abandoned property is located to acquire clean title to the property without assuming the costs associated with seizing properties through eminent domain. Within this section is a thorough, step-by-step description of the procedure for implementing Art. 19-A and an analysis of the contexts in which the proceeding can be used.

Part 5 describes additional strategies used by other cities to address blight, including those used in: (a) Buffalo, NY; and (b) Youngstown, OH. In examining the strategies used by Buffalo, it was found that funding is often a major obstacle to implementing revitalization efforts. Demolition, in particular, can be one of the most expensive actions a city can take on a property. The use of assets seized during criminal investigations can be a new and easily obtainable source of revenue for cities that otherwise have little or no funding available for revitalization. Guidance for taking advantage of such a funding source is provided, as well as an illustration of the success Buffalo has achieved by its use of such funds.

The strategies used by Youngstown to combat blight include obtaining AmeriCorps funding that can be dedicated to rehabilitation efforts and passing legislation that requires parties with an interest in a vacant property to cover the costs the local government incurs to maintain such a property. The positive results Youngstown has seen from these initiatives, as well as how Albany and Schenectady can benefit from similar strategies, are discussed.

The recommendations represent a portfolio of strategies the cities can use to combat blight. This report introduces and describes this portfolio.
Background and Acknowledgements.

This report grew out of an interdisciplinary course with a focus on creative problem solving in the practice of law; it was a joint effort between four law students and two graduate students in public administration and policy. The authors thank their professors – Raymond Brescia, Meghan Cook, Paul Sautter-Walker, and Theresa Pardo – for their guidance on this report.

The authors of this Report and their professors sincerely thank the following individuals for their time, expertise, and guidance in preparing this Report:

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1.0 Introduction: Legal and Social Impacts of Blight.

During a trip to Detroit this past January, President Obama, before strolling through the Detroit Auto Show with GM Executives, said: “What is true of Detroit is true of the country. That’s one of the reasons I came here...I want people to remember how far we’ve come.”1 Since Detroit sought to restructure its debt obligations through bankruptcy in July 2013, the federal government has given Detroit $130 million for blight removal.2 This has led to the demolition of more than 7,500 blighted buildings within city limits in less than two years.3

Five hundred and twenty-three miles to the East, the Electric City, Schenectady, New York, had, as of March 7, 2016, 899 abandoned vacant residential properties.4 “What we want is owners who really care about the property. We just want to get away from the people who were buying houses cheaply just to make a profit,” Assistant Corporation Counsel Attorney with the City of Schenectady’s Law Department, Rachel Ward said.5

In both Albany and Schenectady, and countless other cities across the United States, blight occurs when vacant and abandoned properties directly threaten public health and safety.6 Nationally, typical consequences of blight include: depopulation; abandoned buildings; high unemployment rates; increased crime and vandalism; reduced home values; less tax revenue for cities; increased taxes for city residents, to compensate for abandoned property owners who are not paying their

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2 *Id.*
3 *Id.*
5 Interview with Carol Ann Jones, Code Enforcement Clerk/Vacant Building Registrar, City of Schenectady, in Schenectady, New York (Apr. 5, 2016).
taxes; and increased and more complex issues for governments to face, with less funds with which to address them.7

Recently, in an effort to combat blight, the cities of Schenectady, Amsterdam, Troy and Gloversville urged New York’s Secretary of State to consider the specific hurdles they face, which similarly affect other Upstate cities. The result of blight, they argued, includes the high cost of staff time and salaries of staff from numerous involved departments including code enforcement, legal, engineering, financial, and management, among others. Costs are also incurred from fire and police calls; materials and contracting; uncollected taxes and utilities; increased insurance premiums; and lost economic development, including a loss of business, flight from residents, and decreased tourism.8 These once bustling cities now face significant budgetary constraints that they simply cannot afford to take ownership over otherwise abandoned properties that the cities could potentially put to more productive use.

This report is an effort to advance the current set of strategies and capabilities for addressing blight by responding to a specific set of questions posed by the cities of Schenectady and Albany, New York. The report presents a portfolio of selected interventions for consideration by these two cities as resources in their efforts to address blight. It includes six sections including this introductory section. Part Two introduces the cost of blight and the specific effects of vacant homes on the cities of Schenectady and Albany, New York. Part Three reports on an investigation of issues and challenges related to the ability of the cities to get access to and use relevant data about properties so they can more fully understand the status of properties and to use that data to inform decision making and planning. Part Four introduces a process by which the cities, using a mechanism under existing state law, can seize property as abandoned. Part Five introduces current practices in the use of financial mechanisms, in the form of seized assets funds, AmeriCorps grants, and vacant building bonds as tools to address the maintenance of vacant properties. Part Six, provides concluding remarks about the portfolio.

8 Fight the Blight: New York State Can Help Upstate Cities, CITY OF SCHENECTADY, CITY OF AMSTERDAM, & CENTER FOR TECHNOLOGY IN GOVERNMENT (Apr. 8, 2016, 8:39 PM) [hereinafter CTG Report].
2. The Cost of Blight and the State of the Two Cities.

2.1 The Cost of Blight.

Urban blight negatively impacts a municipality in a wide variety of ways.\textsuperscript{9} Blight generates increased crime, health risks, and accidental fires and can result in a municipality assuming significant fiscal risks.\textsuperscript{10} As one study of the cost of blight on communities concluded: “On average, a single depressed property can cost a municipality tens of thousands of dollars per year in direct and indirect costs. Direct costs include code enforcement, administration, engineering and property maintenance. Indirect costs include uncollected taxes on distressed properties, devaluation of adjacent properties and impact on city services such as police and fire calls.”\textsuperscript{11}

Urban blight is widely recognized as an “invitation” to violent and property crimes.\textsuperscript{12} According to the “Broken Windows Theory” espoused by James Wilson and George Kelling in the early 1980’s,\textsuperscript{13} an unattended property is a visual cue for diminished social control and attracts vandalism, loitering, and other crimes.\textsuperscript{14} Vacant properties are havens for trash, stray animals, squatters, and criminals.\textsuperscript{15} Further, as residents of the community perceive an increased rate of crime, they alter their behavior by avoiding social interactions in areas near vacant properties or by moving away from the neighborhood, thereby further reducing informal social controls and fostering a greater amount of crime.\textsuperscript{16}

In 2011, the Youth Empowerment Solutions Group in Flint, Michigan, completed a study illustrating the effect that rehabilitating vacant properties can have on crime rates.\textsuperscript{17} During the course of the project, middle school students, accompanied by neighborhood adults, cleaned up and transformed three adjacent

\textsuperscript{10} Id.
\textsuperscript{11} Four Cities Kick Off Effort to Combat Urban Blight with NY Department of State Local Government Efficiency Grant: Capital Region And Mohawk Valley Cities Working Together With UAlbany’s CTG To Fight Blight, UNIVERSITY AT ALBANY NEWS CENTER, (May 7, 2015) http://www.albany.edu/news/59799.php.
\textsuperscript{13} Grodzinski, supra note 12.
\textsuperscript{14} Id.
\textsuperscript{15} Id.
\textsuperscript{16} Id.
\textsuperscript{17} Id.
vacant lots into a park. After completion of the park, the Michigan Youth Violence Protection Center tracked violent crimes for a period of 22 months after the rehabilitation and compared it with the statistics obtained prior to the project. The Center found a 37% decrease in violent crimes within 200 meters of this project site and a 56% decrease in violent crimes within 100 meters of the park’s location.

Researchers from Harvard University, who studied the costs of vacant and abandoned homes on municipal coffers, found as follows: “Accounting for both the foreclosure costs paid for by City and County agencies, and the impact of foreclosures on area property values, a foreclosure…could impose direct costs on local government agencies totaling more than $34,000 and indirect effects on nearby property owners (in the form of reduced property values and home equity) of as much as $220,000.”

Vacant buildings also diminish a city’s tax revenue in three ways: the owners are frequently delinquent in tax payment; the property’s assessment value is decreased, thereby generating fewer taxes; and the abandoned properties depress the surrounding property values in the neighborhood. Currently, property taxes are the single largest source of tax revenue under local control, so the loss of this tax income can be devastating to local governments.

In terms of affecting the property values of neighbors, a 2001 study from Philadelphia found “that with all else being equal, houses on blocks with abandonment sold for $6,715 less than houses on blocks with no abandonment.” Further, the study concluded that the closer the homes were to the abandoned property, the greater the depreciation in value.

More generally, blight diminishes the attractiveness of a community. This notion goes to what Schenectady cites as another substantial challenge: the costs associated with making an abandoned property marketable if it were to buy title and become owner of the property. “What you have to be able to do,” says Alan Mallach of the Brookings Institution and the Center for Community Progress, “is to come up with ways to reuse the lots so that they will hopefully enhance, and at a

18 Id.
19 Id.
20 Id.
22 Supra note 9.
23 Id.
25 See Id.
26 Supra note 9.
minimum, not detract from, the attractiveness of the neighborhood to homebuyers, investors, and rehabbers.”

In the wake of the “Great Recession” many homeowners found themselves unable to make mortgage payments and chose to abandon the properties. Mortgage service providers were then flooded with properties they needed to repossess through foreclosure. Currently, in New York State, the average period between a property owner first becoming delinquent on making his or her mortgage payment until the completion of the foreclosure process is 1,000 days. Furthermore, “A substantial percentage of owners abandon their properties prior to completion of the foreclosure.”

New York State law does not offer much assistance to municipalities that want to hold mortgagees responsible for vacant properties. According to Wade Beltramo of the New York Conference of Mayors (NYCOM): “RPAPL §1307 [which sets forth mortgage property maintenance obligations under the law]...only imposes a requirement on the mortgage service provider to maintain their properties after they have obtained a judgement in a foreclosure proceeding.”

2.2 The State of the Two Cities.

Schenectady’s ten most problematic abandoned properties, as identified by Schenectady city officials for this project, whether located in its notoriously troubled neighborhood of Hamilton Hill, or in the landmark and upscale General Electric Plot neighborhood, diminish the value of the surrounding homes and quality of life for the people who live in them. The children play in and around the decay, abandoned properties that create unattractive nuisances that place the city’s next generation at physical and social risks. There is more trash around; the air quality diminishes; lack of businesses places groceries and other necessities farther away; and people become frightened of these neighborhoods—much like Detroit’s 7-Mile Road neighborhood.

Despite the bleak picture that this very real downward spiral can represent, there is hope, and cities like Schenectady and Albany have mapped out plans to make real progress toward combatting blight. To a certain extent, the plans are

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29 Id. at 17.
30 Id.
31 Id.
there—it is our assessment that it is mainly the funding and resources that will put these plans into motion that are lacking.

For example, in a desire to obtain some additional resources to address blight, Schenectady recently submitted a proposal to New York’s Secretary of State which sets forth some of the reasons such resources are necessary, and cost effective. As that report states, “[e]ven if we were able to only demonstrate the deflection of the minimum statistically significant number of distressed properties (3%) this would result in a savings of $10,334,076,” or “[a]pproximately three times the proposed investment.”32 Moreover, the City in its proposal has gone on to add that: “At higher levels of success, there are solid indications that actual property tax reductions would be feasible without corresponding reductions in government services.”33

Schenectady can look to a city like Detroit for an example of a city taking proactive steps to combat blight. Detroit is spearheading the nation’s most aggressive blight removal program and is poised to demolish 15,000 buildings by 2018.34 Detroit has consistently sought and received large amounts of funding since the financial crisis to combat blight.35 Schenectady could follow suit, particularly with the 2017 opening of the $150 million Rivers Casino & Resort. The plans to fight blight in Schenectady are there—it is the funding that is not.

Schenectady’s most complete estimate yet of the costs of blighted properties has concluded that each property costs the City $68,225 in direct costs each year.36 This number is comprised of an initial yearly cost of $3,225, as well as subsequent costs of $10,200, and a demolition cost of $54,800.37 The cost of demolition alone is a large concern for Schenectady.38 On average, a demolition costs the City $20,000, but can also cost $54,800 much of the time, and roughly ten to twelve property demolitions take place annually.39 The City asserts that these rates are increasing.40 Further, demolition costs may also include administrative costs, such as those that accompany the work involved with searching for owners; enforcing codes; and overseeing foreclosures.41 However, some of these costs may be recovered through fines or fees if the owner is found and pays them.42

32 CTG report, supra note 8.
33 Id.
34 Todd Spangler, Detroit blight fight to be boosted by Treasury funds, DETROIT FREE PRESS (Feb. 19, 2016, 6:33 PM), http://www.freep.com/story/news/politics/2016/02/19/detroit-blight-fight-boosted-treasury-funds/80605654/.
35 Id.
36 CTG Report, supra note 8.
37 Id.
38 Id.
39 Id.
40 Id.
41 Supra note 27.
42 Id.
Schenectady’s proposal to New York’s Secretary of State also outlined the formula that comprises indirect costs associated with maintaining abandoned properties in the city today: $4,000 in lost property tax; and $872 in lost water/sewer/garbage fees. Combined, this amounts to $34,104 over the seven years it is projected that it takes for a property to go from vacant to blighted and then in need of demolition.\textsuperscript{43} Schenectady’s best estimate to-date sets forth that the indirect costs associated with vacant and abandoned properties alone cost the City $4 million yearly.\textsuperscript{44}

Within the City of Albany, it is estimated that there approximately 1,146 vacant properties, with 347 vacant properties actively registered by their owners on the City’s vacant building registry;\textsuperscript{45} with some additional properties not registered with the City. These properties are dispersed throughout the city, with the greatest concentration in the Arbor Hill and South End areas of the city.\textsuperscript{46}

Currently the City of Albany has been electing not to obtain title to vacant buildings because of the fiscal impact on the City of doing so. The County of Albany has obtained title to roughly eighty vacant properties through the use of tax foreclosure proceedings and through the county’s land bank. However, these processes are lengthy and often expensive.

When attempting to calculate the cost of blight to the City of Albany, exact statistics regarding costs vacant properties impose on the City are not available. Nevertheless, one can calculate the cost of blight to the City of Albany using the same figures that were applicable to Schenectady. Assuming that the costs are relatively the same, the estimated cost to the City of Albany would be roughly $11,169,407 per year.\textsuperscript{47} This estimate does not reflect the estimated $5,583,312 in indirect costs to the County of Albany.\textsuperscript{48} Further, these statistics do not reflect the estimated $6,853 in decreased value of surrounding properties associated with each vacant property.\textsuperscript{49}

Moreover, cities like Schenectady and Albany may fear the litany of other real and potential indirect costs for which they may be responsible if they do

\textsuperscript{43} CTG Report, supra note 8.
\textsuperscript{44} Id.
\textsuperscript{45} Email from Robert Magee, City of Albany, Dated Sept. 9, 2016.
\textsuperscript{46} City of Albany Vacant Buildings Citywide Map (2015).
\textsuperscript{47} University at Albany Center for Technology in Government, Blight Costs (using the seven year projections for each property’s direct costs to Schenectady divided by seven, we obtained a number of $9746.43 per property annually, then multiplied at amount to the total number of properties in Albany (1,146) to receive a total $11,169,407 in estimated direct costs to the City of Albany per year).
\textsuperscript{48} Id. (the term “indirect costs” included lost tax revenue and costs associated with lost water, sewage, and garbage fees).
\textsuperscript{49} Id.
ultimately take ownership over a property. For example, a city may not want to, or cannot, expend the funds to have a property environmentally surveyed prior to taking title. Yet, once it obtains a property, a city may discover unanticipated environmental issues that are very costly. An example of this is if the location previously housed a dry cleaner. Following ownership, a city may conduct an environmental survey, only to discover chemicals in the soil that require extensive mediation beyond which the city had originally planned. To obtain such surveys on all or most properties before ownership is many times not feasible for cities like Schenectady and Albany. Outside of unknown environmental damage to a property, city officials in Schenectady have walked into residences that were housing squatters, drug labs, drug-selling operations, prostitution rings, and dead animals, such as a deer.


Blight is clearly a problem in the cities of Schenectady and Albany, and both cities are seeking solutions to this problem that fit their own needs and fiscal constraints. In order to identify the appropriate solution for any particular property, however, there must be certain information available to take action on that property. This section focuses on identification of the critical information needed to take action on a property and the challenges associated with obtaining and using that information. The Cities of Schenectady and Albany are seeking to learn more about the critical information categories, the information sources, and how to overcome the challenges in getting that information so they can more fully understand the status of properties to inform their planning and decision making.

This project focused on vacant properties where the offices of the corporation counsel of each city want to take action but they cannot because they do not have all the information on the property. The code enforcement department is certain that the property is vacant and structurally fails to meet housing and building code requirements and now the case is passed to the corporation counsel for action. The goal of this project is to identify the key pieces of information a city corporation counsel would need in order to make a decision and take an action on a vacant property.

In order to learn more about the vacant property information environment the cities of Albany and Schenectady selected specific properties for the team to examine. In total, 24 properties were chosen by the cities, 10 in Schenectady and 14 in Albany. Albany chose to focus on the historic Ten Broeck triangle neighborhood, adjacent to downtown, which is currently being rezoned. Schenectady chose properties in various neighborhoods, to give us a sample of the different types of vacant properties.
Through the examination of these specific properties, the team worked to identify the critical information and challenges associated with taking action on these properties.

3.1 Methodology.

In order to accomplish this goal, the team completed a series of in-depth interviews with officials related to this process. In Albany, the team interviewed the following individuals: Rob Magee, Chief of Buildings and Regulatory Compliance; and David Gonzalez, Assistant Corporation Counsel. In Schenectady, the team interviewed the following individuals: Krystina Smith, Assistant Corporation Counsel; Jackie Mancini, Director of Development; and Steven Strichman, Executive Director of the Capital Region Land Bank.

Sample questions that the team asked during the interviews include the following:
- What scenarios cause the most blight in your city?
- What information do you need to make a decision on a property?
- What questions do you need to have answered before you can take any action?
- Where do you find this information?
- Do you trust the information that you find?
- What are the challenges to getting the information?

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<th>City</th>
<th>Name of Interviewee</th>
<th>Title</th>
<th>Selected Questions</th>
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<td>Rob Magee</td>
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<td>David Gonzalez</td>
<td>Assistant Corporation Counsel</td>
<td>• What information do you need to make a decision on a property?</td>
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<td>Schenectady</td>
<td>Krystina Smith</td>
<td>Assistant Corporation Counsel</td>
<td>• What questions do you need to have answered before you can take any action?</td>
</tr>
<tr>
<td></td>
<td>Jackie Mancini</td>
<td>Director of Development</td>
<td>• Where do you find this information?</td>
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<td></td>
<td>Steven Strichman</td>
<td>Executive Director of the Capital Region Land Bank</td>
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3.2. The Vacant Property Action Process.

The process by which vacant properties are identified and addressed are somewhat different in the Cities of Albany and Schenectady. This section details some of those similarities and differences. In both cities, the code enforcement departments are charged with identifying and tracking vacant properties within their respective cities. A vacant property is typically brought to the attention of city officials from neighbor complaints or routine inspections. A code enforcement inspector visits the property to confirm its vacant status and identify any code violations that might be present on site, since most vacant properties are in some state of disrepair. The inspector then notifies the owner of record of any violations that must be corrected. Once a certain amount of time has passed with no action or cooperation, code enforcement sends the case to the corporation counsel, to take legal action on behalf of the city.

Depending on the specific circumstances of the property, the corporation counsel’s offices of the two cities have a few options for action. The most common strategy is to pursue enforcement in civil court. In this circumstance, the owner is sued (by the city) for fines associated with the code violations. Another strategy that a corporation counsel might take is to sue for failing to register the property as vacant under the city’s vacant property registry.

The cities of Albany and Schenectady both have vacant property registry laws. In Schenectady, failing to register the property as vacant is a criminal offense, which gives counsel the option to make a criminal case and pursue jail time. Depending on the legal strategy used, the counsel may need to contact not just the owner, but any entity who may have an interest in the ownership of the property, such as a bank holding a mortgage on the property. If the counsel is successful in getting the contact information for and participation of the owner, the case will either get settled out of court or go to trial. If the legal action is successful, the property can then be sold to a new owner, transferred to the land bank, or demolished, depending on the specific circumstances.

Another strategy that cities use to acquire a vacant property is through the tax foreclosure process. If the property taxes have not been paid for a specified
period of time, usually three years, then the city can foreclose on the property and take possession. In Albany, this is done at the county level, and the property then gets transferred to the county land bank.

While there are many procedural differences both cities are searching for alternative strategies to address vacant properties.

3.3. Scenarios That Cause Blight.

In examining the 24 properties within the two cities, the team identified three main scenarios that cause blight. Those include: an investment opportunity gone awry; a zombie property where the property is stuck in a foreclosure process; or a situation with a deceased owner where the property is caught in the probate process. Each of these scenarios is described in greater depth below.

- The first scenario to cause blight is a disinterested investor. These owners usually see the purchase of a property as an investment opportunity. Their goal in acquiring the property is to collect rent and/or sell the property in order to make a profit. This usually does not go according to plan, and the owner abandons the property. Sometimes an owner can no longer afford the property. Sometimes they are wealthy owners who own many properties, and they can afford to ignore a property. The common theme in this scenario is that the property was purchased not as a home but as a way of producing income.

- The second common scenario the team encountered is the “zombie” property. These are properties where a bank has initiated a foreclosure but not completed it. The owner has received a notice of foreclosure, exited the property, and moved on with his or her life. The owners are usually unaware that they still are the legal owners of the property. These cases pose regulatory challenges for the cities because the bank is not legally responsible for the property, even though it owns a significant interest in the property. Until it completes the foreclosure process, the bank is not the legal owner of the property with all of the responsibilities that come with ownership. Once a property has entered “zombie” status, a bank can sell its interest to another bank without notifying a government official or transferring the title. This poses a unique information challenge, since the owner has usually moved away, and while the bank pays the property taxes, the counsel has no authority to force the bank into action, assuming he or she even knows the identity of the bank with an interest in the property. Officials have found that banks usually do not take any action on the property beyond boarding it...
Corporation counsels interviewed by the team have reported banks usually do not want to lose their investment, since the value of the property interest held by the bank usually far exceeds the sale value of the vacant property.

- The third scenario the team found was a deceased owner. In some cases, the cities are alerted that an owner has died, and in others, the cities have no idea that an owner has passed away. When a person passes away, his or her heirs may not always think to alert local government officials. The heirs of the deceased owner may not always want to take the property and they cannot legally be forced to take it. They also may not live locally and may be unaware that a property can be sold to the city or disposed of in some way, like deeding it to the land bank. If the corporation counsel’s office knows that a property owner is deceased, it can search for this information through the local surrogate’s court.

3.4. Critical Information Necessary to Take Action on a Vacant Property.

Based on the interviews and time spent working with the city officials, the team identified three main pieces of data needed for a corporation counsel to take action on a vacant property: 1) owner information, 2) tax status, and 3) mortgage status. The following provides more detail about each critical information category.

3.4.1. Owner Information.

The first and most important piece of information needed about a vacant property, by both cities, is information about the owner. The owner is the entity that is sued in a court action and held responsible for the property. The owner may be an individual, a bank, or a limited liability corporation (LLC). There may be another entity that has an “interest” in the property, as when an owner assumes a mortgage to purchase the property. In those cases, a financial institution will also have an interest in the property. It is important to have accurate contact information for an owner, so the City may serve papers on that owner. If an owner is not properly served, the court may dismiss the case for lack of jurisdiction. To understand the challenges related to this information, it is important to understand how the information is acquired and updated.

When a person purchases a property, he or she must register the deed with the County Clerk. The paper form is scanned, and the owner’s name and address is placed into the county’s Real Property System (RPS). This system is used by the
assessor and updated when a new deed is filed. Officials in both the Corporation Counsel's Office and the Code Enforcement Office have access to the RPS.

Unfortunately, even though the information from the form is entered into the RPS, there may still be data quality issues and data gaps. The system does not have updated contact information for the owner. When an owner moves, he or she does not have to list a new address with the County Clerk. Furthermore, the system does not show what percentage of a property is financed by a bank, and thus does not reflect whether a financial institution has an interest in the property as well as the owner. The system also shows no changes when a bank that has initiated foreclosure action has sold its interest in the property to another bank. RPS may also be inaccurate when a property owner passes away. Quite often, when the property is willed to an heir, that individual makes no change in the deed to reflect the change in ownership. The RPS system, which has these shortcomings, was nevertheless designed with the goal of legal record-keeping, and is considered the “go to” for owner information by city officials. In most files viewed by the team, the first sheet of paper in vacant property files is a print-out of the RPS screen.

When the owner is an LLC, the initial contact information for the LLC will appear on the RPS report, but more specific information on an LLC and who is behind it can be found through the New York State Secretary of State’s Office. City officials often have difficulty collecting information from the Secretary of State’s office, and have sometimes had to submit Freedom of Information Law (FOIL) requests to obtain such information, which can take months.

3.4.2. Tax Status.

The second important piece of information needed to take action on a vacant property is the tax status. The system of tax collection is very simple, and it usually only requires an e-mail or a phone call from the corporation counsel’s office to the tax collector in order to acquire information about the tax status of a property. Tax collection systems usually have their own owner information, and may have updated contact information. The tax collector may also provide key information about what bank has an interest on the property by showing who is paying the taxes.

This information is also important because it lets officials know whether an owner has abandoned a property. Paying taxes can show that an owner is responsible. Responsible owners may be easier to find, and have a greater interest in making repairs or turning over a property to a city for economic development. Unpaid taxes can indicate to the corporation counsel’s office that an owner has abandoned a property and become disinterested in its maintenance and upkeep, or that an owner can no longer afford the property. In these cases, the process may take longer or be more difficult to complete. The only exception is when a bank has
initiated a foreclosure and evicted the owner, but has not completed the foreclosure
in order to protect its investment. In this case banks will pay the taxes on the
property even though the evicted owner is still technically the responsible party.

Tax status indicates whether the property taxes are being paid, and, if they
are being paid, it also provides the identity of the payor. In Albany, tax status is
important because it lets the corporation counsel know if the property taxes are not
being paid and whether the property will soon enter tax foreclosure. The County of
Albany is the tax foreclosing entity for the City of Albany. According to David
Gonzalez, Assistant Corporation Counsel in Albany, if he knows that a property will
soon face tax foreclosure, he will decline to pursue a code enforcement action in civil
court, since the property will soon become in possession of the land bank. Mr.
Gonzalez reported that in these cases, it would be more efficient to allow the tax
foreclosure process to happen, instead of spending the effort trying to find the owner
and recoup code violation fines. The City of Schenectady does tax collection and
foreclosure in-house, within the City’s Corporation Counsel’s office.

3.4.3. Mortgage Status.

The third important piece of information about a property is the mortgage
status. Mortgage status shows whether a property is owned outright or is
encumbered by a mortgage, and whether the bank has begun or completed a
foreclosure on a property. Having accurate mortgage information is important
because it gives the cities an alternative contact if city workers are unable to locate
the owner. When an individual purchases a property, he or she must submit a form
to the County Clerk if the property is purchased with a mortgage. This is a paper
form that is scanned electronically as a PDF to the clerk’s office for record keeping,
and the name of the bank is not placed within the RPS system. If a bank initiates
or completes a foreclosure, this is done in the New York State Supreme Court, and
these records can be accessed through court data bases. This system is also
designed for record keeping, but mortgage actions are listed by party name, and not
by property. Depending on how common the owner’s name is, and how many
properties the person owns, tracking this information down may take a very long
time. This system also does not show whether a bank has sold its interest on a
property to another bank.

3.4.4. Additional Considerations

Once the counsel’s office knows the identity of the owner, the owner’s contact
information, the tax status of the property, and the mortgage status of the property,
it can initiate legal action. An additional piece of data officials may consider is the
structural state of the property. This information is typically accessible through
code enforcement departments in the respective cities. Knowing the structure of the
property will allow the development departments to determine whether a property can be turned around quickly, whether rehabilitation will be lengthy, or whether a property is eligible for demolition. Structural status would affect whether a property is given to the land bank, sold to a private developer, or demolished and the land given to an organization like Habitat for Humanity.

3.5 Identifying Critical Information for Specific Properties in Schenectady and Albany.

The team sought to learn more about the owner, tax, and mortgage status for all 24 properties in Schenectady and Albany. The team soon learned that it was not possible to find this information within the time constraints of the project. The following tables present a snapshot of some of the properties where the team was able to look for the owner, tax, and mortgage information. It also presents the team’s confidence in the information, a judgment made after speaking to the city officials about the information found.

<table>
<thead>
<tr>
<th>Property Listing</th>
<th>Owner Status</th>
<th>Tax Status</th>
<th>Mortgage Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 Hall Place</td>
<td>X</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>10 Hall Place</td>
<td>✓</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>41 First Street</td>
<td>X</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Property Listing</th>
<th>Owner Status</th>
<th>Tax Status</th>
<th>Mortgage Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>129 Henry Street</td>
<td>✓</td>
<td>✓</td>
<td>X</td>
</tr>
<tr>
<td>739 Eastern Ave</td>
<td>X</td>
<td>✓</td>
<td>X</td>
</tr>
<tr>
<td>1706 Carrie Street</td>
<td>✓</td>
<td>✓</td>
<td>X</td>
</tr>
</tbody>
</table>

**LEGEND**

<table>
<thead>
<tr>
<th>SYMBOL</th>
<th>MEANING</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td>Information Found And Likely Accurate</td>
</tr>
<tr>
<td>X</td>
<td>Information Found And May Be Inaccurate</td>
</tr>
</tbody>
</table>
Through the process of looking for information about these properties, the team identified a number of challenges in accessing and using the information.

### 3.5. Data Challenges.

The main challenge facing cities in their effort to combat blight is their ability to get access to high quality data about the vacant properties. Information accessibility and information quality are two of the most pressing challenges.

#### Accessibility.

Many departments within a city, a county and the state have information relevant to a property. And different court systems have information relevant to a property and to the legal processes involved as well. Finding and getting access to information in all these places is time consuming and complicated. In some cases, it is simply a matter of trying to get someone on the phone that proves difficult. In others, there are inconsistencies in filing, such as: filing by property address, versus by owner name. Quite often data is stored in the form of electronic images of paper files and therefore are not searchable. When data is stored in electronic database systems, these systems are often organized for one business process versus another. Due to incompatibilities in design or structure, they cannot be integrated.

#### Quality.

Often the information is inaccurate or not complete. The most obvious example of inaccurate information in this process is the owner’s contact information. When data about an owner found in different sources conflict with each other, it may be difficult to determine which source of information is the most accurate and which should be used to take effective action.

The following tables present some of the challenges associated with the critical information categories.
## Description of Importance and Challenges for Each Information Category

<table>
<thead>
<tr>
<th>Category of Information</th>
<th>Owner Information</th>
<th>Tax Status</th>
<th>Mortgage Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Why it is important to know this information?</td>
<td>To determine who is responsible for a property</td>
<td>Demonstrates whether the owner is legally responsible through his/her tax history;</td>
<td>This will let officials know whether a bank has an interest on the property. In an Article 19a proceeding, all parties with an interest must be notified. The bank holding interest can also be an alternative contact, if the owner has left the area.</td>
</tr>
<tr>
<td>What were the challenges in getting this information?</td>
<td>Numerous data sources: County Real Property System (RPIS), Lexus Nexus, Buildings and Code Enforcement Systems; NYS DOS Division of Corporations, State Records Uniform Commercial Code</td>
<td>There were few challenges in getting this information, as long as there was clear communication between departments.</td>
<td>No one specific database for mortgage information; Data sources: City Tax Collection System, County Tax Collection System, County Real Property System (RPIS), mortgage bank</td>
</tr>
</tbody>
</table>

## Questions Associated With Each Data Element and Potential Data Source Locations

<table>
<thead>
<tr>
<th>Category of Information</th>
<th>Questions associated with each element</th>
<th>Where would the information to answer the question be located?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner</td>
<td>• Who is the owner-(person or an LLC) • What is the address • What is the contact Number • Who is the agent (name and contact information)</td>
<td>• County Real Property System (RPIS) • Lexus Nexus • Buildings and Code Enforcement Systems • County Real Property System (RPIS) • City’s Building and Code Enforcement Systems (if collected) • NYS DOS Division of Corporations, State Records Uniform Commercial Code</td>
</tr>
<tr>
<td>Tax Status</td>
<td>• What is the mailing address for tax bill? • Has the tax bill paid or returned? • Who is the payee? • What is the length of time taxes not paid?</td>
<td>• City Tax Collection System • County Tax Collection System</td>
</tr>
<tr>
<td>Mortgage Status</td>
<td>• Who is the bank holding mortgage? • What is the name and contact of loan servicer and property management?</td>
<td>• City Tax Collection System • County Tax Collection System • County Real Property System (RPIS) • Calling the Bank Listed as holding the mortgage</td>
</tr>
</tbody>
</table>
Questions Associated With Each Data Element and Potential Data Source Locations

<table>
<thead>
<tr>
<th>Category of Information</th>
<th>Questions associated with each element</th>
<th>Where would the information to answer the question be located?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• What is the foreclosure status?</td>
<td></td>
</tr>
</tbody>
</table>


In examining the 24 properties and conducting the interviews with city leaders, the team also identified several additional insights about the vacant property information environment.

- Legal action on a vacant property is taken on behalf of the cities by the Corporation Counsel, using information from the Code Enforcement office. Taking a *successful* legal action requires accurate data in the three categories described above. Quite often, legal actions are held up because accurate information is not easily accessible. The root cause of this challenge stems from the fact that the needed data is stored in different organizations with different ways of storing and updating the information. There were also differences between the two cities, which may provide additional insights.

- The mission of an organization affects the way it stores and manages data. The RPS system established by the County Clerk exists for legal record keeping. RPS is not tailored to the needs of the corporation counsel’s offices when they wish to take action on urban blight. The same observation could be made of the NYS Secretary of State’s Division of Corporations, which stores and manages data on LLC contact information for its own purposes, not tailored to the needs of local governments handling urban blight.

- There were some notable differences between Albany and Schenectady with regard to the tax foreclosure process, which affected their approaches to vacant properties. In Schenectady, tax collection, tax foreclosure and development are all responsibilities of city government. According to Steve Strichman of the Capital Region Land Bank, this
gives Schenectady a greater level of control over the development process, and gives the counsel more leverage in negotiations. With properties located in the City of Albany, however, tax collection and tax foreclosure responsibilities fall on the government of the County of Albany, and, according to Mayor Kathy Sheehan, the City is “made whole” by the county. As a result, the County is the official tax foreclosing entity, and has the authority to transfer a property to the land bank. The County decides when a property is foreclosed upon for failure to pay taxes, and, once foreclosed, when it is transferred to the land bank. This process shifts control of development from the City to the County. In the words of Mayor Kathy Sheehan, “we don’t have control of our own destiny.”

In identifying these information categories to the team, the corporation counsel’s offices have one goal in mind. The goal is to find the owner and/or bank or a legal representative, and getting a person to do business with the corporation counsel’s office and appear in court. Knowing the owner’s contact information, whether or not the taxes are being paid and by whom, and finding what bank has an interest on the property, all help point the corporation counsel’s office in the direction of finding a person with whom to negotiate to secure a plan for the property moving forward. According to our interviewees, not finding a person to answer phone calls or appear in court was the biggest stumbling block in taking action on a vacant property.

3.7. Considerations for Improving Information Management.

The following are considerations for improving data collection and management in support of city-wide efforts to combat urban blight in the cities of Schenectady and Albany.

1. Promote greater intra-city sharing of information between different departments and with other agencies at other levels of government. This could be accomplished through a more efficient use of information technology.
2. Form an urban blight task force and devote additional time, attention, and manpower to finding information about vacant properties.
3. With difficult cases, cities may be forced into hiring a private investigator to track down missing owners.
4. Create a uniform Geographic Information System to store all of its individual property-related data.
5. Support and Pass “zombie property” legislation, which would make banks the legally responsible party for a property when they initiate foreclosures.
4. An Existing Legal Strategy Available to the Cities to Combat Blight.

This section will outline an existing legal procedure under New York State Law that allows for a property to be deemed abandoned by a court and have title transferred to a local government. There will still be concerns as to how the cities will be able to finance the rehabilitation of the properties once they obtain title. Part 5 will outline two methods used by cities with similar blight issues that could provide an answer as to how to finance the rehabilitation of these properties. This section describes the legal mechanism for obtaining title through state law. It is the first mechanism in a portfolio of mechanisms this report recommends for consideration by the cities in their efforts to combat blight.

4.1.1. Article 19-A.

Regardless of why a particular property has become abandoned, there is a method of combating blight that is seldom used in the Cities of Albany and Schenectady: New York State Real Property Actions and Proceedings Law (RPAPL) Article 19-A. Under the statute, if a property meets the requirements set forth in RPAPL Article 19-A, a court can deem a property abandoned and the title of the property title is transferred to the local municipality.

In conducting Article 19-A proceedings, the first step is to make an official finding that the property is abandoned. This is the responsibility of the municipality’s department or agency in charge of regulating the occupancy and maintenance of residential property. This department is also responsible for initiating the abandonment proceedings. Under RPAPL Article 19-A, both an occupied and vacant dwelling can be determined to be abandoned. For the purposes of this report, the team focuses only on vacant dwellings.

RPAPL §1971 (1) (b) states that a vacant building will be found vacant if, first, the structure is not sealed or being continuously guarded (as required by law). Second, a property could also be deemed abandoned if the property was sealed or is being continuously guarded by a person other than the owner, a mortgagee, lienor or agent thereof and either (a) a vacate order of the department or other government agency is currently prohibiting occupancy of the dwelling, or (b) the tax on the property has been due and unpaid for a period of at least one year.

If the dwelling is found to be abandoned, the department must then file in its own records a certification that contains the finding of abandonment and the facts.
on which the finding has been based.\textsuperscript{54} The department must also immediately prominently, and conspicuously attach to the structure a notice stating that the dwelling has been found to be abandoned and that it is a crime to take, remove or otherwise damage any fixture or part of the building.\textsuperscript{55}

Before the department may institute the proceeding to vest title of the property in the city, it must first file a copy of the certificate of abandonment and a notice that the department intends to commence the proceeding with the county clerk’s office.\textsuperscript{56} Additionally, the department must properly serve the property owner with a copy of the certification and a notice declaring that the RPAPL Article 19-A proceedings may be instituted unless the owner notifies the department that the property is not abandoned. Service upon the owner is proper if: (1) it is made personally; or (2) it has been made by (a) posting the notice in a conspicuous place on the dwelling, and (b) mailing a copy by registered or certified mail to the last known address of the owner. The owner may, within 30 days of the service of notice, notify and demonstrate to the department that conditions upon which the department made its finding of abandonment either do not exist or have been corrected.\textsuperscript{57}

After the department has fulfilled all of the requirements outlined in RPAPL §1972, the department may commence the proceeding in a court with proper jurisdiction within the county in which the dwelling is located. The department is required to have an attorney present in the court during the proceedings.

In the event that any party with an interest in the property contests the finding of abandonment, the burden of proof is placed upon the department to establish the grounds for the action. The court may only make its finding based on the facts that have been presented before it. If the court finds that the dwelling has been abandoned, pursuant to RPAPL Article 19-A, the court must enter a final judgement in favor of the department. An officer of the city must then execute and record a deed conveying the title of the property to the city within 30 days of the court’s final judgement. At this point, the title has vested in the city and the city is now the legal owner of the property.\textsuperscript{58}

However, there are some limitations on the effectiveness of RPAPL Article 19-A. The first being that this statute is only applicable to residential properties and cannot be used to acquire title to commercial properties. The next, and arguably most significant, is the economic constraints of the municipality and the question of whether or not the city can afford to rehabilitate or demolish the

\textsuperscript{54} NYCOM Bulletin, \textit{supra} note 28, at 18.
\textsuperscript{55} RPAPL §1971 (2).
\textsuperscript{56} RPAPL § 1972 (1).
\textsuperscript{57} RPAPL §1972 (2).
\textsuperscript{58} RPAPL §1972 (3).
property once it takes title. Potential answers to this question will be addressed later in this report.\textsuperscript{59}

5. Additional Strategies Used By Other Cities That the Cities of Albany and Schenectady Could Consider.

A lack of funding and resources is an obstacle faced by many cities trying to address blight; the cities that actually experience improvement in their blighted neighborhoods are often cities that have also utilized creative problem solving to find funding \textit{and} make efficient use of that funding. In this section, we will explore the mechanisms employed by two cities not unlike Albany and Schenectady—Buffalo, New York, and Youngstown, Ohio—to treat blight in their own neighborhoods. These cities’ approaches are worth exploring as they are creative strategies that yield successful results, and which can be easily replicated by other cities looking to achieve the same goals. The mechanisms described here are two further options we present in this portfolio of ideas for combating blight.


Buffalo, New York, is a city achieving notable success in its effort to reduce urban blight. Buffalo, a former manufacturing city located in New York State’s western region on the shores of Lake Erie, is a sister city of Albany and Schenectady: the three cities reflect somewhat similar data trends in regard to demographics, poverty rates, and percentage of tax-exempt properties.\textsuperscript{60} Unfortunately for Buffalo, due to its much larger population size and massive population loss due to industry collapse, it has experienced much more significant urban blight than either Albany or Schenectady. Buffalo’s policy initiatives serve as excellent examples of a city using a creative, self-funding strategy to reduce and treat its blighted areas successfully and significantly. Any of Buffalo’s policies described herein may be easily adapted to new and existing strategies being used or considered by the cities of Albany and Schenectady.

5.1.1 Buffalo’s State of Urban Living.

Buffalo’s vacancy rate stands at around thirty percent\textsuperscript{61}—in other words, thirty percent of all available property in Buffalo is sitting empty. Studies estimate that, in absolute terms, Buffalo has approximately 23,000 vacant buildings.\textsuperscript{62} Each

\textsuperscript{59} Infra Part 5.

\textsuperscript{60} The poverty rates for the cities are as follows: Albany – 25%, Schenectady – 24%, Buffalo – 30%. And the percentage of properties with tax-exempt status: Albany – 60%, Schenectady – 36%, Buffalo – 36.9%.


\textsuperscript{62} Id.
abandoned house costs the city approximately $20,060 over five years, per house, in the form of lost taxes, debris removal, inspections, and policing.\(^{63}\) Homes located near vacant structures lose up to $7,600 of their value.\(^{64}\) Forty-one percent of all fires occur in vacant buildings, and ninety percent of all arsons involve abandoned houses.\(^{65}\) The approximately twelve thousand fires in abandoned structures that occur each year cause more than $73 million in property damage annually.\(^{66}\) Demolition costs for a house containing asbestos stand at approximately $16,040 per house, and costs are trending upward over the last several years.\(^{67}\)

5.1.2. Buffalo’s Goal.

Buffalo’s goal has been to reduce its vacancy rate—and with it, all the problems that come with high vacancy—to the significantly lower figure of five percent.\(^{68}\) A vacancy rate of five percent is the national target vacancy rate, as well as the rate recommended for achieving the appropriate balance of demand for housing and healthy elasticity in the housing market.\(^{69}\)

Demolition is occasionally criticized as an extreme, costly, and sometimes counterproductive means of addressing urban blight.\(^{70}\) However, when high vacancy rates are at the root of a city’s blight problem, the vacancy rate is what must be addressed. Achieving a target vacancy rate requires, quite simply, the use of targeted demolition. While using demolition to address blight is not itself a new strategy, Buffalo’s funding strategy for such demolition is quite innovative.

5.1.3. Buffalo’s Methods: Out with the Old, In with the New.

Prior to implementing the initiatives that are the primary focus of this policy recommendation, Buffalo tackled its urban blight problem in one of three ways. One approach was to pursue demolition of a dilapidated property via an emergency declaration from the city’s Fire Commissioner.\(^{71}\) This is, by far, the most expensive way of achieving demolition in Buffalo, granted in situations where a building requires immediate (i.e., end of day) demolition due to unstable conditions, usually

\(^{63}\) Id.
\(^{64}\) Id.
\(^{65}\) Id.
\(^{66}\) Id.
\(^{67}\) Id.
\(^{70}\) Id.
\(^{71}\) Lyons, supra note 68.
after a fire. These buildings are demolished at city expense, which the city attempts to recoup later from the private owner in Housing Court. Outstanding demolition fees owed to the city of Buffalo total over $12.8 million, on top of additional city expenses of over $904,000 in boarding up properties.

Another approach was to pursue demolition via a referral from a Slum and Blight Inspector or from the Mayor’s Task Force on Housing. In the first five months of operating a 311 citizens’ complaint line to these agencies, the City received over 4,153 complaints about properties. That is an average of twenty-seven complaints per day. It is not hard to imagine that a modestly sized office might have difficulty processing and prioritizing such an influx of complaints.

The third approach was pursuing demolition via an order of Housing Court. Buffalo’s Housing Court handles approximately 9,000 eviction cases and 3,000 code violation cases per year. It is the busiest housing court docket in New York State, outside of New York City.

Buffalo is now undertaking and investing in additional revitalization initiatives proven to reduce urban blight while simultaneously generating revenues for the city, reducing crime and increasing public safety, increasing property values, potentially improving police-community relations and public trust in government, creating jobs, and helping residents achieve a better quality of life. Buffalo is able to achieve all these things because the very method by which this funding is secured—policing efforts that result in the seizure of assets used in criminal activities—has the direct effect of reducing criminal activity.

5.1.4. Use of Seized Assets toward Revitalization Efforts.

Buffalo’s approach of using seized assets to pay for city revitalization efforts sounds like urban blight’s silver bullet—but how does it work?

Buffalo uses a three-prong approach. First, the City policies regarding property title and the City’s ability to take actions on dilapidated property, such as demolition, are rather open-ended and broad, which allows the City maximum flexibility and choice of options for addressing blighted areas. Second, the City policies regarding assets seized or forfeited to municipal agencies, including law enforcement, are rather strict, which allows the City to direct the use of funds that

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72 The costs incurred under this approach are in addition to the significant property damage costs arising out of the high number of fires and arsons in Buffalo’s vacant and abandoned buildings. See supra Part IV-A, section i.
73 Lyons, supra note 68.
74 Id.
75 Id.
76 Id.
were previously inaccessible. Last, the City uses this new source of funding to undertake and invest in proven urban revitalization efforts.

5.1.4.1. City Policies Regarding Property Title and Its Ability to Take Action.

Buffalo’s laws do not require the city to acquire title to a property before taking action on it. Buffalo City Code provides:

The owner of any building or structure or any part or parts thereof which become or are abandoned, dilapidated, deteriorated, decayed, or unattractive from any cause so as to endanger the health, safety, or welfare of the public shall repair, demolish, or remove the same.77

This law appears to be rather open-ended and broad, and would seem to cover a gamut of unsafe and unattractive property conditions that the City might want to address.

Buffalo’s process authorizes the City to take action, including demolition, on vacant and/or abandoned properties within a relatively short period of time. The process is essentially as follows. First, an offending property is inspected by the City Building Commissioner, either having been reported to the agency by a neighbor or having already been of note to the agency. After inspection, the Commissioner files a report. If the Commissioner determines that any parts of a building are non-compliant, the Commissioner immediately serves notice upon the owner and all persons having an interest in the property. The notice describes the premises, states why the building is in violation, and orders the building or its offending parts to be repaired, demolished, or removed; it further states that a failure to commence the ordered action within thirty days of service grants the City the right to repair, demolish, or remove such building, and provides that all costs incurred by the City are to be assessed against the land on which the building is located. The notice also provides for a hearing on the matter within five to ten days after service. If, after a hearing, the Commissioner affirms the determination, the owner has thirty days from the original notice to comply, otherwise the City will take action on the property.78

5.1.4.2. City Policies Regarding Asset Forfeiture

Many cities already engage in the collection of fines, fees, and special assessments. The funds are often remitted into either a city’s general fund or the

77 Buffalo City Code § 113 [‘Unsafe Buildings’].
78 Id.
relevant agency’s budget. These fines and fees can often generate substantial revenue for a city: for example, in 2006, the City of Buffalo’s Parking Violations Bureau generated $221,020 in revenue merely through fines and fees for tickets, towing, releases from impound storage, and auctions alone; every penny was paid into the City’s general fund.80

Some cities might also engage in criminal asset forfeiture. These are funds that have been seized as part of a criminal investigation as “criminal proceeds.” For cities that do seize criminal proceeds, the funds are often remitted into a fund within the police department known as an asset forfeiture fund. One benefit of asset forfeiture funds is that they can serve as an additional and welcome revenue source for any city. The fund itself can also be structured in a variety of ways and utilized for any number of purposes, depending on a city’s relevant laws and goals. One criticism of asset forfeiture funds is that such source of funding is vulnerable to abuse; it can misdirect law enforcement priorities and create ethical conflicts of interest, as well as result in unfettered spending by police departments not subject to a city’s normal budgetary, accounting, and reporting requirements.81

Buffalo’s local laws now require that spending of asset forfeiture proceeds is not only conducted in accordance with an approved spending plan, but also that the City must expend all funds raised by the conclusion of the fiscal year. In addition, Buffalo law provides for the establishment of a Shared Asset Forfeiture Fund (SAFF) within the police department to provide funding to private, non-profit, and community-based organizations classified as 501(c)(3) or 501(c)(4) corporations. This funding can support programs with law enforcement, crime, and drug and alcohol abuse prevention that contribute to the safety, betterment, and physical well-being of young people in Buffalo.82 Because many social improvement programs touch on at least one of these criteria, Buffalo’s SAFF funds can be directed to a variety of beneficial revitalization programs.

The key to Buffalo’s program is that this extremely flexible funding is constrained only to protect the funds themselves: Buffalo law prohibits the use of SAFF funds on salaries, operating supplies, equipment, capital improvements, real estate acquisition, SAFF administrative expenses, and similar expenditures.83

80 Id. at 10. Buffalo laws provide for the disposition of fines and civil forfeitures in accordance with N.Y. Vehicle & Traffic Law § 1803, which provides all fines, penalties, and forfeitures paid to a city, town, or village shall be credited to the General Fund of such municipality, unless a different disposition is prescribed by local law or ordinance. See Buffalo City Code §§ 6-24, 16-24 and subseq., 307-3 and subseq., and 479-3. See also N.Y. Vehicle & Traffic Law § 1803.
81 See, e.g., discussion in Part 5.1.4.
82 Buffalo City Code, ch. 6, art. VII [‘Shared Asset Forfeiture Fund’], http://ecode360.com/13571094#13571094.
83 Id.
Buffalo’s SAFF is overseen by an advisory committee consisting of five members. The Police Commissioner constitutes one member (called an “elector”); the Mayor appoints two electors; and the City Common Council fills the two remaining slots. The electors are subject to confirmation by a majority vote of the Common Council. Appointments are for two consecutive years maximum, except appointments during an unexpired term of an incumbent being replaced. Appointments are voluntary and without compensation. The committee’s main duties include recommending SAFF annual spending plans for submission to the Mayor, conducting public hearings as needed, and reviewing and accepting SAFF spending applications. The SAFF annual spending plan selected by the Mayor is then reviewed by the Common Council, where each item with its corresponding application is subject to a majority vote.

5.1.4.3. Expenditure of Seized Assets on Revitalization Efforts.

Establishing a SAFF structure that includes spending provisions requiring a certain amount of funding to be dedicated toward revitalization efforts—thus providing a city with access to funds which were previously unavailable for community development purposes—allows a city to prioritize actions on properties and implement multi-faceted approaches to curing blight.

One use of SAFF funding to spur neighborhood revitalization is for the demolition of vacant and dilapidated buildings. In 2015, the seizure of one drug operation’s assets ($50,000 and eight houses) by Buffalo law enforcement led to the demolition of six dilapidated houses using the criminal proceeds, at a savings to taxpayers of approximately $90,000. As noted earlier, demolition costs for dilapidated buildings, especially ones that contain dangerous materials or pose particularly dangerous conditions, can be very expensive. This is, in fact, even more apparent in Albany and Schenectady than it is in Buffalo: demolition costs in Buffalo run approximately $16,000 per house, while the same in the Capital Region would cost almost $50,000 per house. Given the frequency with which demolition expenses fall on the shoulders of city government, as well as the great cost of the demolitions themselves, demolishing vacant buildings that drag down the value and character of a neighborhood can be an incredibly productive use of newly discovered budget resources.

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84 Id.
85 Id.
86 As discussed earlier, demolition is an essential part of reaching a target vacancy rate. See discussion in Part 5.1.2.
88 Why are demolition costs so much significantly higher in the Capital Region? This is a question to which Albany Law School is currently seeking to answer; however it is beyond the scope of this report.
Another vital use for SAFF funds is the “cleaning and greening” of vacant lots. This type of revitalization effort focuses on the use of landscape treatments in vacant lots in key transitional areas of a city. Vacant lots often exist in a neglected state: full of trash and overgrown brush, they can become attractive locations for criminal activities. Addressing the condition of an unsightly and unsafe vacant lot not only targets public safety issues, but also creates green space in neighborhoods which otherwise lack it. Further, “clean and green” programs can provide hundreds of seasonal jobs to local residents, and can be integrated with other social efforts, such as prisoner re-entry programs.

Last, for properties that are in less serious condition and are salvageable, SAFF funds could be used for rehabilitation and renovation of existing structures. Some cities use SAFF funds to fund city initiatives directly, such as increased clean-up efforts or planting trees. Other cities direct SAFF funds toward independent, non-profit entities, such as a local Habitat for Humanity chapter or a county land bank. Other cities utilize SAFF funds for matching capital investments in properties made by developers or establishing grant programs incentivizing rehabilitation and upkeep.

5.1.5. Effects.

Cities implementing the aforementioned revitalization efforts (i.e., demolition, greening, and rehabilitation) show substantial improvement in crime rates and economic development. One such city experienced an eighteen percent decrease in crime, a twenty-four percent decrease in blight, a twenty-six percent decrease in litter, and a twenty-four percent increase in economic development. In Buffalo in particular, the use of demolition coupled with greening of vacant lots and/or the rehabilitation of dilapidated buildings has resulted in a thirty-three percent decrease in murders, a thirty-five percent decrease in rapes, a forty-one percent decrease in robberies, and significant improvement in quality-of-life issues.

Cities undertaking these actions have also experienced significant improvements to property values as a result of these efforts. One city that combined the demolition of vacant buildings with the cleaning and greening of vacant lots saw the value of nearby homes jump by twenty percent, whereas the homes’ prior value was sixteen percent less than comparable homes with no vacant

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80 Id.
lots nearby.\textsuperscript{93} Now these homes command a premium of two to five percent, a number that continues increasing by a half-percent each year.\textsuperscript{94} Each additional improved lot adds another one percent in value to homes within a quarter-mile of such lot.\textsuperscript{95} In essence, simply by demolishing dilapidated buildings and ensuring the vacant space is kept “clean and green,” a city can greatly improve the value of its property stock. Not only that, but the jump in improvement is immediate, and benefits continue and exponentially increase over time and with ongoing efforts.\textsuperscript{96}

Although there does not appear to be data on the subject, anecdotally, an increased effort by law enforcement agencies to use more community-oriented policing strategies has resulted in lower crime, improved community relations, and improved public trust in government.\textsuperscript{97} At the same time, a statewide survey conducted by the New York State Association of Chiefs of Police, in which police departments were asked for what purposes they use forfeited proceeds, reported that only fifteen percent of all police departments spent those funds on community-based organizations, such as revitalization efforts, whereas one hundred percent spent them on equipment.\textsuperscript{98} With law enforcement agencies across the country being highlighted by the media for use of excessive force and use of advanced military-style weaponry,\textsuperscript{99} the potential negative public relations impact of such survey responses are significant. Albany and Schenectady may wish to consider using their seized funds in ways that encourages better public perception of their hardworking law enforcement officers.

5.1.6. How Albany and Schenectady Compare to Buffalo.

The vacancy rate in Albany and Schenectady is, admittedly, lower than in Buffalo. Still, the two cities should aim to improve their vacancy rates, as they remain significantly higher than the target vacancy rate of 5%.\textsuperscript{100} The first step in

\textsuperscript{94} Id.
\textsuperscript{95} Id.
\textsuperscript{96} Id.
\textsuperscript{100} See discussion in Part 5.1.2 of this report.
reaching this target number is engaging in targeted demolition. Targeted demolition involves strategizing and prioritizing demolition candidates, for example: favoring the demolition of a single blighted property on a block of otherwise occupied properties, or a blighted property near a school; however, in addition to developing a strategy, Albany and Schenectady must also have both the legal environment and funding needed to make significant progress like Buffalo. Asset forfeiture funds present one potential avenue for securing the funding necessary to pay for a targeted demolition program.

5.1.6.1. Current Relevant Statutes.

As discussed in depth in an earlier section of this policy report, both Albany and Schenectady have laws in place that, in order to demolish or otherwise act on a dilapidated property, require the city to either acquire title to the property or successfully have the property declared abandoned—processes which are costly, time consuming, and can lead nowhere, as poor data quality makes it difficult to identify owners in order to serve them with legal papers needed to commence actions against them.

There is substantial room for customization in the city codes of both Albany and Schenectady with respect to demolition of properties. Both cities currently lack laws like the one authorizing the City of Buffalo to take action on a broad and open-ended variety of property conditions. Likewise, while both cities’ respective police departments engage in seizure of criminal proceeds, neither city has ordinances in place that specifically direct how either city should use such funds.

5.1.7. Policy Considerations.

Buffalo is a city that has managed to make remarkable improvement in its fight against the widespread vacancy and blight in its neighborhoods. The cities of Albany and Schenectady may wish to consider adopting some form of Buffalo’s policies in order to better implement their own blight initiatives.

As noted earlier, the two cities require owning title to a property before demolition. Adopting or amending city laws to allow for demolition of property without a declaration of abandonment or acquiring title would enable the cities to take action on offending properties as soon as desired.

102 See supra Part 4.
Demolitions in the cities are exceptionally costly—more so than in other cities across the state. To help cover these costs, the cities might consider directing fines and fees generated by specific departments, such as Housing Court fines, into a fund specifically to cover demolition costs.

Finding new sources of funding is not something a typical city can easily do. Both the cities of Albany and Schenectady have such a source available in the funds generated by assets seized during police investigations. Adopting or amending laws to establish SAFFs within police departments with the ability and authority to either share a certain percentage of funds with qualifying non-profits or directly fund revitalization efforts, with imposed accounting and reporting requirements, could make effective use of such funds and direct them to community revitalization efforts.

The two cities could also consider appropriating greater budget funding in general towards demolition and revitalization efforts. However, budgets are tight for many cities, and lack of funding sources for new projects is often one of the most cited reasons for being unable to implement revitalization projects. Because of this, the creation of SAFF-style programs could serve as a new source of revenue for community revitalization efforts.

Finally, the cities could work in tandem with other policy initiatives that may complement new and existing initiatives. In the context of implementing a Buffalo-style revitalization program, this might include, for example, the increased use of targeted drug investigations in known blighted areas, because blighted houses and vacant lots often attract illegal activity or are spots where illegal guns are stashed. This would both reduce crime and generate revenue for a SAFF fund.

An additional mechanism to consider incorporating into SAFF funding would be the use of participatory budgeting, as is used by New York City’s City Council. Participatory budgeting improves transparency of budget decisions and processes, and can also make a community feel more engaged in revitalization efforts; the end result might generate community feelings of ownership over revitalized areas and contribute to long-term, community-driven care and maintenance of areas.

Furthermore, once a building is demolished, the cities might consider implementing a de-densification program, as was done in Detroit. De-densification is, in essence, the sale of newly vacant lots to adjacent property owners, often at a relatively modest price. This doubles lot sizes, increases value and enjoyment, and ensures that the property is in the hands of someone who will care for it.

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103 CITY OF NEW YORK, What is Participatory Budgeting?, http://labs.council.nyc/pb/.
The cities of Albany and Schenectady could also continue seeking outside funding, such as federal grants or participation in the Americorps Revitalize program, as an additional resource for revitalization efforts. This avenue is explored in greater detail in the following section.

5.2. Youngstown, Ohio.

5.2.1. AmeriCorps’ “Revitalize” Youngstown and Vacant Property Registry Ordinance.

Here, we will introduce another American city suffering with blight and seek to learn from its innovative programs that attempt to address it. Youngstown, Ohio, is a city comparable to the cities of Albany and Schenectady in demographics as well as in the rate of poverty within the city. This section will briefly explain Youngstown’s initiatives to address blight in the city, as well as some of the positive results these directives have yielded. Further, we will address how the cities of Albany and Schenectady could follow Youngstown’s lead by implementing similar initiatives comparable to those of Youngstown.

5.2.1.1. AmeriCorps’ “Revitalize” Youngstown.

The City of Youngstown, Ohio, experienced a dramatic economic decline following the closing of steel mills in the 1970s, which reduced the city’s population by 60 percent, to 72,000, over several decades. The sharp decline in population led to blight and depressed property values in the city. In 2013, Youngstown was called “America’s Fastest Shrinking City.”

In 2013, the City of Youngstown, Ohio, commissioned the drafting of a “Neighborhood Revitalization Strategy Report.” The city partnered with the

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105 See discussion in Part 5.2 of this report.
107 Youngstown, Ohio has a poverty rate of 37.4 percent. Id. Youngstown Among The Country's Poorest Cities, (WKBN First News 27 television broadcast Sept. 18 2014).
109 Posey, Sean, America’s Fastest Shrinking City: The Story of Youngstown, Ohio, THE HAMPTON INSTITUTE, (Jun. 18, 2013) http://www.hamptoninstitution.org/youngstown.html#.VyjkiTbPDzJ. One 2010 study reported that Youngstown, Ohio consisted of 5,249 vacant structures, combined with the approximately 20,000 vacant lots, making about 40 percent of the city vacant. See Tavernise, supra note 108. See also Laura Gottesdiener, A New Strategy To Make the Banks Pay: Youngstown, Ohio, May Have Found the Cure to the National Plague of Abandoned Properties, IN THESE TIMES, (Dec. 23, 2014).
Youngstown Neighborhood Development Corporation (YNDC) in efforts to undertake a neighborhood planning process to improve conditions throughout the city.\(^\text{111}\) This strategy report identified the areas of Youngstown on which the YNDC and the City of Youngstown should focus when tackling blight. These areas included neighborhoods with weaker housing markets adjacent to significant assets.\(^\text{112}\) These areas may be located near major institutions or existing industrial complexes where redevelopment could be encouraged.\(^\text{113}\)

After determining which properties would benefit most from being rehabilitated, the City of Youngstown entered into a strategic partnership with the YNDC and The Ohio Commission on Service and Volunteerism (ServeOhio)\(^\text{114}\) to implement the “AmeriCorps Revitalize” project in Youngstown. The Revitalize project is regarded as, “Youngstown’s front line in the effort to fight blight...”\(^\text{115}\) The program is funded through an operational grant provided by federal AmeriCorps program and facilitated by ServOhio.\(^\text{116}\) The City of Youngstown supports the project by providing materials to complete the projects.\(^\text{117}\)

The project engages ten city residents in a year of full-time community service. Local residents apply to be a part of the Revitalize team through AmeriCorps.\(^\text{118}\) Based on AmeriCorps’s application criteria, members of this project are required to complete 1,700 hours of service, including 80 hours of independent service activities.\(^\text{119}\) In return, members are awarded a modest living allowance as well as a basic health plan option. Members of the Revitalize program are also eligible for an AmeriCorps Segal Education Award upon successful completion of service.\(^\text{120}\) In Youngstown, Revitalize team members worked daily to board up and clean up vacant homes in various neighborhoods in the city.\(^\text{121}\) Regular activities required of Revitalize team members in Youngstown include: clearing overgrowth, mowing overgrown yards, clearing trash and debris, removing tires, and boarding unsecured doors and windows.\(^\text{122}\)

\(^{111}\) Id. at 12.
\(^{112}\) Id. at 10.
\(^{113}\) Id.
\(^{115}\) Id.
\(^{117}\) Id.
\(^{120}\) Id.
\(^{121}\) AmeriCorps Revitalize Project, supra note 114.
\(^{122}\) Id.
5.2.1.2. Results of AmeriCorps’ “Revitalize” Youngstown Project.

From September 2, 2014, through September 1, 2015, ten AmeriCorps members, all Youngstown residents, committed a year of service to working with YNDC through the Revitalize program. Over the course of the year, these team members boarded up and cleaned 482 vacant homes in over a dozen neighborhoods across the city and rehabilitated 13 vacant and previously abandoned housing units. The impact of the program’s first year led both the City of Youngstown as well as ServeOhio to increase support for the project for the 2015-2016 program year. The program was renewed, and it hired a second group of thirteen city residents. The new team will work full time to continue to fight blight throughout the city. The program also expanded in its scope of service, including new activities such as cutting grass for the city's nearly 3,000 vacant and unmaintained homes and additional rehabilitation work.

5.2.1.3. “Revitalize” Albany and Schenectady?

For the cities of Albany and Schenectady, individually, to begin a “Revitalize” program like Youngstown’s, they must first partner with a non-profit organization that applies to AmeriCorps for an operational grant to fund the volunteers for their work, or, the municipality can apply on its own. The requirements for applying for an AmeriCorps Revitalize grant include responding to the federal government’s request for proposals for AmeriCorps funding. The non-profit organization or the municipality applying for the grant must supply 24% of the total cost requested for the first three years of the project. This match can consist of in-kind contributions, direct funding, or both.

If Albany and Schenectady were to apply for such a grant, they must clearly identify and document a community need with statistical data and make a determination as to whether AmeriCorps members are the appropriate resource to respond to and address this need, and if so, how and why. The cities must also include in their applications a grant budget, impact evaluation data, as well as

124 Id.
126 Press Release, Revitalize AmeriCorps Project A Success For Youngstown’s Neighborhoods, supra note 123.
128 Id.
129 Id.
aligned performance measures that will be used in reporting progress. The following charts describe existing AmeriCorps-funded projects in Albany and Schenectady.

**Table 3: AmeriCorps Projects Currently in Albany**

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<tr>
<th>Program Name</th>
<th>Description</th>
<th>Sponsor Organization</th>
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<tbody>
<tr>
<td>Albany School Turnaround (Current)</td>
<td>A leadership development initiative that helps persistently low-performing schools immediately improve academic achievement by equipping school leaders with the characteristics and strategies proven to dramatically improve academic achievement in a short period.232</td>
<td>City of Albany – Dep’t of Youth &amp; Workforce Services</td>
</tr>
<tr>
<td>American Red Cross NPRC – NY Region (Current)</td>
<td>Provides vital emergency assistance to individuals and communities affected by disasters and builds community preparedness before disasters strike. Members make a full-time commitment to disaster response working varying hours to meet the needs of the community.233</td>
<td>American National Red Cross DC</td>
</tr>
<tr>
<td>Habitat for Humanity Capital District (Feb 27, 2015 - Current)</td>
<td>Provides lower-income, hard-working families (and individuals) the opportunity to purchase their own simple, decent, homes with an affordable monthly house payment. Each partner family invests hundreds of hours of labor into building their own home and those of others.234</td>
<td>Habitat for Humanity, Capital District</td>
</tr>
<tr>
<td>MLK National Day of Service (1/19/15 – 1-19-15)</td>
<td>On this day, Americans of every age and background celebrate Dr. King through service projects that strengthen communities, empower individuals, bridge barriers, and create solutions.235</td>
<td>American Red Cross – National</td>
</tr>
</tbody>
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Red Cross Disaster Resiliency Corps (Current) | State Resiliency Corps members in the Greater NY Region are divided between preparedness planning and emergency response to help plan, prepare, and build capacity and resiliency to support Region communities before, during and after emergencies. Members provide community disaster education presentations, recruit and train volunteers, and assist the disaster services department in preparing for the average of 7 local disasters that the Region responds to daily.\(^{136}\) | American Red Cross of North Eastern NY

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<thead>
<tr>
<th>Program Name</th>
<th>Description</th>
<th>Sponsor Organization</th>
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| Northeast Energy Corps (Current) | 30 AmeriCorps members will learn career skills and receive certification required to perform energy audits, retrofits, and upgrades to low income homes in the City. Members will perform diagnostic work such as community outreach, increase homeowner awareness of funding and services available through public and private programs, assist homeowners with the application process, provide energy audits, and conduct remediation activities and post-remediation assessments.\(^{138}\) | Northeast Parent & Child Society

| Youth Build Schenectady, NY (Current) | Provides low-income 16-24-year-olds in the US, who are neither in school nor employed, the opportunity to rebuild their communities and their lives. The program attempts to break the cycle of poverty with a commitment to work, education, community, and family.\(^{139}\) | Youth Build USA, Inc.


\(^{137}\) AmeriCorps In New York, supra note 131.


5.2.2. Vacant-Property Registry Ordinance in Youngstown.

In addition to seeking funding through AmeriCorps for revitalization efforts, Albany and Schenectady could emulate another strategy deployed by Youngstown: requiring individuals or entities with an interest in an abandoned property to post a bond to cover any costs incurred by the cities to maintain such properties. Although Albany currently has an ordinance that attempts to accomplish this to a certain extent, it could enforce or strengthen that ordinance, and Schenectady could pass its own to accomplish the same goals as Youngstown’s efforts. This section describes this approach.

On January 2, 2013, Youngstown-vacant property registry ordinance became effective. According to the City, “The City of Youngstown is a government entity (a chartered municipality of the State of Ohio), which has the legal authority to exercise its police powers to address problems.”[^140] The ordinance requires that any entity initiating a foreclosure process (this includes a bank, mortgage servicer, lender or individual) on vacant homes or homes that become vacant, must post a $10,000 cash bond.[^141] Youngstown has been one of the first cities to successfully implement this sort of legislation[^142] in an attempt to “forc[e] banks to be held accountable for their damage to the community”[^143] when they fail to maintain abandoned properties. Youngstown’s vacant-property registry ordinance only applies if the property is vacant or becomes vacant during the foreclosure.[^144] If the City is forced to expend funds to engage in maintenance of the property while it is abandoned, it can draw down the cost of such maintenance from the bond.[^145]

5.2.2.1 Results of Vacant-Property Registry Ordinance in Youngstown.

The City of Youngstown accumulated $870,000 in foreclosure bond money in the first six months since it began collecting such payments.[^146] This number did not reflect the $50,000 to $60,000 the city refunded in cases where foreclosure

[^142]: Laura Gottesdiener, A New Strategy To Make the Banks Pay: Youngstown, Ohio, May Have Found the Cure to the National Plague of Abandoned Properties, IN THESE TIMES, (Dec. 23, 2014).
[^143]: Id.
[^144]: Id.
[^145]: Vacant Property Registration: Overview, supra note 140.
[^146]: Milliken, supra note 141.
As of 2015, Youngstown has collected $2.2 million in these bonds. The success of Youngstown’s Vacant-Property Registry bond has led other cities in Ohio, including Canton and Warren, to pass ordinances requiring banks to post a $10,000 bond when they file for foreclosure on vacant homes or homes that become vacant during the foreclosure process. According to data from the Ohio Supreme Court, foreclosures in the state of Ohio dropped by nearly 18 percent from 2013-2014. This is the lowest number of foreclosures in Ohio since 2001.

Meanwhile, Mahoning County, Ohio, the county in which the city of Youngstown is located, reported a drastic 12 percent decrease in filings for foreclosure since 2013.

5.2.2.2. Vacant Property Registration Laws in Albany and Schenectady.

Any time this type of law is considered the question arises of whether the City has the authority to enforce such a law. For Albany and Schenectady to enforce a local law similar to Youngstown’s vacant property registry ordinance, which requires a bond to be paid to the city by the owner of a vacant property, the cities must first have the authority to implement such a law. Home Rule is the right of localities to exercise control over matters of local concern. The New York Constitution states, “Every local government shall have power to adopt local laws as provided by this article.” Further, local governments “shall have power to adopt and amend local laws not inconsistent with the provisions of this constitution or any general law relating to its property, affairs or government.” Therefore, the Home Rule doctrine fully vests the cities of Albany and Schenectady with the Constitutional right to enforce general local laws relating to property within the respective cities.

Despite a city’s right to enforce general laws relating to its property, affairs or government, the State Preemption Doctrine serves as a limitation of this right. Preemption occurs when a local government adopts a law that directly

147 Id.
149 Id.
150 Id.
151 Id.
152 People ex. rel. Metropolitan St. Ry. Co. v. State Board of Tax Comm’rs, 67 N.E. 69, 70 (1903), aff’d, 199 U.S. 1 (1905).
153 N.Y. CONST. art. IX, § 1(a).
154 Id. § 2(c)(i).
155 Id.
conflicts with a state statute and when a local government legislates in a field for which the state legislature has assumed full regulatory responsibility.\textsuperscript{157} Areas where the state legislature has assumed full regulatory responsibility are those that the state has “evidenced its intent to occupy the field.”\textsuperscript{158}

In New York, neither state nor federal law has addressed this issue directly. In 2000, the City of Albany implemented a vacant building registry similar to Youngstown’s except Albany’s law does not require the property to be in the foreclosure or to have already been foreclosed upon as well as vacant. The bond amount is required simply if the property is determined vacant by the Fire Department.\textsuperscript{159}

Albany’s registry requires the owner of a vacant property to establish a $10,000 bond to secure the continued maintenance of the property throughout its vacancy, and to reimburse the City for any expenses incurred in inspecting or securing the property.\textsuperscript{160} The City sought to enforce this ordinance in 2011, but according to statements from the Albany County spokeswoman at the time, Mary Duryea, there was a fear that the bond requirement could potentially deter investors and it was not in the City’s interest to have people stop bidding on properties.\textsuperscript{161} Despite the City of Albany already having such an ordinance in place, the preemption doctrine does not limit the cities from passing and enforcing local laws such as Youngstown’s; preemption only applies where the state has evidenced its intent to occupy the field.\textsuperscript{162}

While New York’s Constitution preserves a certain amount of autonomy for local governments in respect to, “property, affairs or government” by limiting the state legislature’s power to act regarding to those matters through “special legislation,” the Home Rule clause is still subject to “State Concern.”\textsuperscript{163} The State Concern Doctrine renders the Home Rule clause inoperative if the legislation in question is also a matter of substantial state concern.\textsuperscript{164} The vacant property registration laws recommended here are intended to give the cities a new, potential avenue of funding to subsidize emergency repairs on vacant homes. The problem of blight that Albany and Schenectady face is not necessarily an area of state concern,

\textsuperscript{157} DJL Rest. Corp., 96 N.Y.2d at 95, 725 N.Y.S.2d at 625, 749 N.E.2d at 190.
\textsuperscript{158} Albany Area Builders Ass’n., 74 N.Y.2d at 922.
\textsuperscript{159} Deb Jones, Vacant Building Ordinances Research Packet, FALCON HEIGHTS CITY COUNCIL, (Feb. 1, 2012).
\textsuperscript{160} Albany Municipal Code § 133-78.3.
\textsuperscript{161} Jordan Carleo-Evangelist, Albany Studies Vacant Building Proposal: Landlords Would Have to Post at least $10G Bond to Cover City’s Exposure., TIMES UNION (Aug. 8, 2011).
\textsuperscript{162} Albany Area Builders Ass’n., 74 N.Y.2d at 922.
\textsuperscript{163} Adler v. Deegan 251 N.Y. 467, 167 N.E. 705 (1929).
as many communities throughout the State, particularly in New York City and Long Island, do not face the type of blight that Upstate cities face. Such issues are highly localized, and not necessarily an issue of substantial state concern for the purposes of displacing local authority in Albany and Schenectady to implement a vacant property registration program that includes the posting of a bond.

Other local governments in the state are following Youngstown’s lead with respect to instituting vacant property bond requirements. In 2014, the Poughkeepsie Common Council voted unanimously in favor of a Vacant and Foreclosed Properties Bond Ordinance. Poughkeepsie’s foreclosure bond ordinance requires banks to give the City of Poughkeepsie a $10,000 bond for each foreclosed or vacant property. If the banks fail to maintain the properties, then the city can use that bond money to perform the upkeep. Most recently, in April of 2015, the town of Guilderland, New York, made effective a similar ordinance that requires owners of vacant and abandoned properties within Guilderland to register their properties as well as to post performance bonds for the continued maintenance of their properties.

To date, the issue of whether a vacant property registration ordinance such as these is constitutional has not been directly addressed by the courts or the legislature in New York State. Nevertheless, a local ordinance requiring developers to pay a permit fee to cover inspection of public improvements, such as sidewalks, storm and sanitary sewers, and roadways, and requiring developers to pay more if the actual cost of inspection exceeded basic fees was found to be a permissible exercise of a town’s implied authority under Home Rule as long as the fee is based on an assessment of the actual costs of such improvement, is estimated on the basis of reliable factual studies or statistics, or the fee is based on a commonly employed method which is uniform and predictable. Ultimately, as long as there is rational basis for imposing the fee, the fee will be a proper use of the town’s authority.

If the City of Schenectady was interested in passing legislation similar to Youngstown’s vacant property registry in order to address code violations on vacant and foreclosing or foreclosed properties within Schenectady, the City would have

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the authority to pass such legislation based on the City’s implied authority under the Home Rule. As long as the amount imposed is based on a reasonable or assessed calculation, the City should not have a problem enforcing a law of this type. On the other hand, the City of Albany is in a great position to begin to benefit from vacant property bonds. Based on the success in Youngstown in attaining bond money for vacant and foreclosing properties, Albany should consider maximizing the use of the current vacant building registry in place to address issues on bank-owned properties, specifically. Youngstown’s vacant property registration ordinance has produced some very real results for Youngstown, due to this; it would be in the interest of the cities of Albany and Schenectady to consider how some of the different components of Youngstown’s vacant property registry could be applied to fund anti-blight efforts locally.

6. **CONCLUSION.**

We have presented a portfolio of three strategies and funding mechanisms that the mayors of Albany and Schenectady may wish to consider utilizing or implementing in their respective cities in their efforts to address blight in their cities; most of these strategies and their various moving parts can be used in tandem with each other and with other strategies not discussed here. We also wish to impress upon all readers the importance of having, maintaining, and making available sufficient information necessary for city officials to take actions and make decisions on blighted areas. Improving municipal responses to blight requires diligence, financial support, and data maintenance and sharing. The strategies contained herein are just three mechanisms the cities can maintain in their portfolio of strategies for combatting blight. We hope this Report has been helpful for the cities of Albany and Schenectady and that it has drawn their attention to individual areas of improvement, mechanisms they can start utilizing today, and initiatives to consider moving forward.

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170 Milliken, *supra* note 141.