

Policy Tools to Help Neighborhoods with Soft Markets Acquire or Maintain “Problem” Properties

There are an estimated 37,000 vacant properties in New Orleans as of mid-2013. Many of these vacant properties are dilapidated buildings or overgrown vacant lots – “problem” properties that are decreasing quality of life for nearby residents and, often, entire neighborhoods. The New Orleans Market Value Analysis indicates that many of these parcels are unlikely to come “back to commerce” in the near future – meaning, it is unlikely that investors will buy these vacant properties and develop them, particularly in residential neighborhoods. This is largely because the real estate development economics in many of the most blighted areas of New Orleans do not support development of housing on a large scale.

Miller Urban Consulting’s work with residents of Zion City, a neighborhood with over 50% vacancy and 30% “problem” properties, has prioritized gaining community control of vacant and blighted properties in order to improve their condition, encourage alternative land uses, and increase property values and quality of life. We believe that this type of **community stewardship** is a solution that can work well in soft-market areas across New Orleans, especially in areas with organized residents and neighborhood associations. To support community stewardship of land and property, we need policies that perform two functions:

- 1) Moving property out of neglectful or absent owners’ hands, and
- 2) Helping communities take control or “stewardship” of long-term blighted properties.

Based on the two criteria above, this report analyzes the advantages and disadvantages of five policy options that currently exist for dealing with “problem” properties that negatively impact communities’ quality of life: expropriation, tax title sale, adjudicated property acquisition, code enforcement and code lien foreclosure, and three-year acquisitive prescription.

A Note on Terminology: Definitions of “Blighted”, “Abandoned”, and “Problem” Property as Used in this Report

“Blighted property” is property that has been declared “vacant, uninhabitable, and hazardous” by a public hearing officer. A property cannot officially be “blighted” until it has gone through the process of inspection and hearings, received a guilty judgment, and failed to remedy the hazardous conditions upon re-inspection. Tests for blight are:

- Vacant structures: New Orleans has a “Minimum Property Maintenance Code” that is used to determine whether a property can be declared blighted.
- Vacant lots: weeds and plant growth over 18 inches, rodents, stagnant water.

“Abandoned property” takes on slightly different meanings throughout the Louisiana Revised Statutes – generally, it means property that is vacant or not lawfully occupied (which applies more to structures than lots). The tests for abandonment include:

- Structures that are unoccupied, without utilities, and/or unsecured;
- Uninhabitable structures that have had delinquent taxes for three years or more;
- “Any premises which by reason of dilapidation, deterioration, state of disrepair, or other such status is otherwise detrimental to or endangers the public safety, health, or welfare.”

“Problem property” is the term we use in this report for properties that are dilapidated, overgrown, dangerous, or otherwise negatively impactful to communities’ quality of life and property values, but which have not been legally declared either blighted or abandoned.

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Barriers to Moving Long-Term Blighted Property Out of Neglectful Owners' Hands

The largest barriers to moving property out of the hands of an owner who has allowed its condition to deteriorate are:

- 1) **Back Taxes:** Large amounts of back taxes often are present on these properties. Zion City has 81 “problem” properties that are negatively affecting their quality of life; of these properties, 50% have back tax liens of \$5,000 or more, and 38% have back tax liens of \$10,000 or more.
- 2) **Quieting Title:** “Quieting” title in order to complete the transfer of property from one owner to another can be costly – anywhere from \$250 to \$3,000 or more for properties with major title issues. This can be a severe challenge in areas where the previous owners may have been missing and not paying taxes for years; the average problem property in Zion City has not had taxes paid in 6.5 years, and 11 problem properties have over 20 years of unpaid taxes.
- 3) **Cost of Property:** A third barrier is, ultimately, the cost of acquiring the property itself; in areas where profitable development is not a near-term likelihood, paying fair market value or even close to market value for these properties can be a severe struggle for one property, let alone the 81 “problem” overgrown lots and dilapidated structures that Zion City is attempting to address. The median assessed value of these 81 properties is \$13,300. Communities often must pay two-thirds to full appraised value of the property in order to afford them the “opportunity” of legally maintaining land that is negatively affecting their quality of life on a daily basis.

The vast majority of mechanisms for addressing these issues and moving “problem” properties out of the hands of the owners who have allowed its condition to lapse require a significant investment of funds from private investors or the public sector. This disadvantages communities in soft-market situations; it creates an inequitable cycle in which property values in soft markets remain low due to large numbers of dilapidated and overgrown properties. These low property values discourage private investors from investing in development, which in turn keeps the dilapidated and overgrown properties in place and the property values low.

Barriers to Establishing Community Stewardship of Land

Promoting community stewardship should be an important part of any blight-reduction strategy in New Orleans. When private owners from outside the community obtain property in soft-market areas (particularly in residential areas), we often see them fail to develop the property and/or try to introduce incompatible land uses for residential neighborhoods. This means that we need policies that support community-based organizations or individuals who want to maintain and/or develop vacant property in soft market areas; these entities may include community residents, neighborhood associations, land trusts, land banks, or other organizations that have a clear plan for turning “problem” properties into neighborhood assets.

Some of the barriers to achieving community stewardship are beyond the scope of this research: for example, establishing long-term funding mechanisms for supporting liability insurance and maintenance is a separate question that deserves its own serious investigation.

However, we also see barriers to community stewardship that are policy-based, particularly because so many of the policies for moving blighted property out of the hands of private

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owners contain requirements that these properties be sold at public auction to the highest bidder. In soft markets, this is often not the best strategy, because new private owners are not always educated about what is and is not possible under local economic conditions and zoning. Traditional auction processes thus often contribute to a cycle of neglect in which property is passed between owners again and again without any improvement in its neglected condition.

Existing Policies: How can We Work Within the System, and What Needs to Change?

We investigated the five policy options that currently exist for moving “problem” properties out of the hands of their current owners:

- Expropriation
- Tax title sale
- Adjudicated property acquisition
- Code enforcement and sheriff’s sale, and
- Three-year acquisitive prescription. T

The rest of this report offers descriptions of each policy and summaries of their advantages and disadvantages in light of the strong need for community control and stewardship of land in soft-market areas.

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Policy Option 1: Expropriation

Definition: Expropriation occurs when an authorized government agency takes property from a private owner to fulfill a “public use” or “public purpose.” In Louisiana, this can include taking properties that have been officially declared “blighted” or “abandoned” by a public hearing officer, in order to eliminate their threat to public health and safety.

Basis: Historically, this mechanism has often been used for taking property in order to build crucial public infrastructure such as roads, power and telephone lines, or water management structures. Louisiana state law also allows the City and NORA to expropriate properties based on their legally determined status as “blighted” or “abandoned”; the “public purpose” test in these cases is met by the removal of a threat to public health and safety.

How it Works: Once a property has gone through the administrative process and been declared blighted or abandoned, the City or NORA may proceed with the expropriation process. The public authority must pay “fair market value” for the property; all liens not covered by this payment attach to the previous property owner, and the public authority gains free and clear title to the property. The public authority may then offer the property at public or private sale, or may use it for a public purpose such as streets, utilities, and so forth.

However, the expropriation process is expensive for the public sector (because they must pay the full value of each property) and is clearly designated to “return properties back to commerce” – generally by selling them to new developers who will pay back the money that the public authority spent to acquire the property. For example, NORA must offer to help the current owner with technical assistance in order to avoid expropriation, and must also line up purchasers who will develop the property and remove it from its hazardous state. This means that the process is unlikely to be favored by the public sector for use in softer market areas; in general, the City and NORA have avoided expropriation almost completely in recent years.

Governing Statutes: Louisiana R.S. 19:136.2 – R.S. 19:136.13 (City powers of expropriation); R.S. 48.441 – R.S. 48.460 (City powers of expropriation); R.S. 33:4720.56 (NORA powers of expropriation)

Top Opportunity for Soft Markets:

Expropriation is a strategy that the community could advocate for when proposing large projects, such as greening and water management, which would be best served through gaining large tracts of adjacent lots. It is not ideal for lot-by-lot projects.

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Summary: Expropriation

Addresses Back Taxes?	Generates Clear Title?	Advantages	Disadvantages
Yes	Yes	<p>1) May be exercised on any property that has been declared blighted by a hearing officer (other properties too, but these cannot be resold by the government).</p> <p>2) Can guarantee community control with City/NORA cooperation: the City or NORA can choose what groups to sell or donate expropriated property to.</p>	<p>1) City/NORA must pay fair market value for properties – this is therefore a costly strategy for the public sector to pursue.</p> <p>2) Expropriation is mostly appropriate for larger projects – it’s unlikely the City would pursue it as part of a lot-by-lot strategy, unless the strategic value of the properties was <i>very</i> clear.</p>

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Policy Option 2: Tax Title Sale or “Tax Sale”

Definition: A “tax title sale” is a process by which Orleans Parish sells unpaid tax debts on properties to bidders. Eventually, if the debt is not paid back, the winning bidder at a tax sale can foreclose and gain ownership of the property.

How it Works: Orleans Parish holds an online tax sale auction. All properties at the auction are priced at the amount that represents one (or more) year(s) of unpaid taxes, depending on how the auction is structured. The “bids” do not change the amount of money that needs to be paid – instead, they change the percentage of the tax title that the winning bidder is willing to accept. So, essentially, all bidders pay the *same price* (the amount of taxes due on the property), but each successive bidder agrees to own *less* of a right to the total tax debt. This means that competitive auctions could ultimately end up with the winning bidder paying the full amount of back taxes on the property in order to gain legal rights to just 1% of the total tax debt.

Property A: Owner owes \$500 in taxes	Tax Title Sale Bidder #1: Pays \$500 for the right to 100% ownership of this debt	Tax Title Sale Bidder #2: Pays \$500 for the right to 98% ownership of this debt	etc...	Final Tax Title Sale Bidder: Pays \$500 for the right to 1% ownership of this debt
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In practice, lawyers for tax sale purchasers who are looking to “return the property to commerce” through development generally advise their clients to settle for nothing less than 100% ownership of the tax debt – this increases the likelihood that the purchaser can successfully foreclose on the property, clear the title, gain title insurance, and develop the property. However, for non-development uses (i.e. a side yard or backyard for a home, a rain garden, or a parking area), auction officials have advised some purchasers that their the safest bet at auction is a bid for 1% ownership of the tax debt – this ensures that you cannot be outbid.

As noted in the above paragraph, tax title sale does not automatically grant clear “title” to the property – which means it does not establish full legal ownership that would allow the new owner to obtain title insurance and a mortgage. Instead, the new owner must go through the process of hiring an attorney and clearing title to the property, which can cost anywhere from \$250 to \$3,000 or more, depending on how complicated the ownership structure of the property is. This is necessary for most purposes that involve development or even land trust ownership (getting a mortgage on a property requires title insurance, which requires clear title).

Another disadvantage of tax title sale: even after winning the auction, the winning bidder does not have immediate ownership of the property. Instead, they must wait the 18-month redemptive period (for blighted properties) or the 3-year redemptive period (for properties that have not been legally declared blighted). A “redemptive” period is a designated amount of time that the original owner is given to pay off their tax debt and “redeem” – meaning, take back full ownership of – their property. Lawyers usually advise their clients to wait an additional two years after the redemptive period to take care of any legal issues that might have occurred during the tax sale process.

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In short, the tax sale process has many disadvantages as a process for trying to move property out of the hands of delinquent owners and into new owners' hands; its main advantage is that it can allow new potential owners to access property for far less cost than fair market value (if the property has relatively low tax debt). Theoretically, in strong markets, tax title purchasers can make up for all the costs they incur by developing the property (as long as the owner fails to pay back the tax debt and redeem the property). In soft markets, the disadvantages may outweigh the advantages except in specialized cases (see "Top Opportunity" section below).

Governing Statutes: Louisiana R.S. 47:2153 – 47:2163. Louisiana Constitution Article 7, Section 25.

Top Opportunity for Soft Markets:

Tax sales may offer an opportunity for a *tax-exempt, non-profit* community organization to purchase blighted property with *low taxes* for less than its fair market value and use it for a *non-development* purpose, such as simply occupying and maintaining the property or installing a non-permanent use such as a community garden. As long as the organization does not plan to develop the property in the short term, there would be no need to spend the legal fees needed to fully clear title, though the organization would have to pay legal fees to foreclose on the tax debt after the three-year or 18-month redemptive period. As long as the organization is a tax-exempt non-profit, this would prevent the property from accumulating additional property taxes that would make it more difficult to bring the properties back into commerce later on.

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Summary: Tax Title Sale

Addresses Back Taxes?	Generates Clear Title?	Advantages	Disadvantages
No	No	<p>1) Can purchase tax title on properties for less than their fair market value, as long as back taxes are lower than fair market value.</p> <p>2) It is possible to enter the “winning bid” for tax title sale fairly reliably by bidding 1% at auction; this means the purchaser would pay the full amount of the owner’s tax debt, but only own the rights to 1% of that tax debt. This is good for certainty of winning the auction, but can create problems later on if trying to foreclose, clear title, and <i>develop</i> the property. For non-development uses such as gardening, open space, or side/back yards for existing property owners, this can be a fairly good option.</p>	<p>1) Must pay full amount of back taxes and code liens on property in order to take ownership. This means tax title sale does not work well for properties with high back taxes – particularly properties that have accumulated higher back taxes than their fair market value.</p> <p>2) Cannot guarantee community control; lots sell at public auction to the bidder willing to accept the lowest percentage of ownership of a tax lien.</p> <p>3) The “bid down ownership” mechanism for tax title auctions means that the person willing to accept the <i>least secure</i> ownership of the property will win the auction – this could set up future title challenges or difficult foreclosure proceedings.</p> <p>4) Requires a 3.5 year redemptive period and a foreclosure procedure in order to take ownership of the property and gain clear title. This is shortened to 2 years for “officially” blighted properties. During that time, the current owner can “redeem” the property at any point by paying their taxes due.</p>

Policy Option 3: Adjudicated Property Donations or Sales

Definition: “Adjudicated” properties are properties that have failed to sell at tax title sale and have therefore reverted to ownership by the City of New Orleans. However, a property does not officially become adjudicated until the City has filed appropriate paperwork; there are many properties that have had failed tax sales, but that lack official records that start the redemptive period for the property.

Basis: A property becomes “adjudicated” when it has failed to sell at tax title sale for the full amount of taxes and interest due. Louisiana R.S. 47:2196, “Adjudication to Political Subdivisions,” states that “The bid to be accepted in tax sales shall be at least equal to the statutory impositions, costs, and interest; otherwise, the tax collector shall bid in tax sale title to the property for the political subdivision.”

How it Works: When a property becomes adjudicated, the City does not automatically legally own the property. Instead, the liability for the property, the responsibility for paying taxes, and the legal ownership of the property remain with the original owner unless the City chooses to claim ownership of the property, which is a lengthy process. To claim ownership of a property, the City must wait for the three-year redemptive period to expire after the original failed tax title sale. Once the three-year redemptive period for the property ends, the City then waits an additional two years to clear up any potential remaining procedural errors. Therefore, after the first failed tax title sale, it will usually take a total of five years for the City to be able to move it out of its current owner’s hands. After this five-year period, the City can choose to file a deed of ownership with the recorder of mortgages and take legal ownership of the property. Currently, in most cases, the City does not choose to claim ownership of the property even after the five-year period is up, because that would entail expenses to clear title and maintain the property long-term.

Under State law, there are many ways that the City could deal with a property that is not being maintained in the hands of its current owner. Right now, there are no programs in place in New Orleans to execute any of these options, and more legal research on the City Charter would be needed to determine the options that will work legally without passing any new ordinances. However, according to State law, the options available to the City to dispose of adjudicated property are:

- *Continue Trying to Sell at Tax Title Sale:* The City may choose to simply continue putting the property up for tax sale auction, even though it did not sell at the first tax sale. The City may put the property up for tax sale auction as many times as it wishes to do so.
- *Donation:* The City can donate adjudicated property to any entity it chooses.
- *No Minimum Bid Auction:* The City may conduct a public auction in which there are no minimum bids, no requirement to appraise the property, and the highest bidder wins the property.
- *Appraisal-Based Auction:* The City may require an appraisal of adjudicated properties, and then sell them at public auction with a minimum bid of at least two-thirds of their appraised value. If a property does not sell at this first auction, the City may conduct a second auction with a minimum bid of one-third the appraised value of the property.
- *Tax and Lien-Based Auction:* The City may sell adjudicated properties at public auction, and set a minimum bid equal to the total taxes and liens on the property (this process is very similar to tax title sale).

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- *Adjoining Landowner Sale (Potentially at Low Cost)*: Louisiana R.S. 47:2202(B) provides opportunities for “adjoining landowners” – meaning, landowners with property that borders on the adjudicated property – to purchase adjudicated property for *any price* that the City or governing authority chooses to set, as long as the “adjoining landowner” can prove that they have maintained the property for one year. This could be a target for community advocacy to ensure that the pricing of these lots makes them accessible to neighboring landowners.

What adjudication does *not* automatically offer is clear title to the property – as in the tax title sale process, the new owners of the property (meaning either the City, or the parties that the City sells/donates property to) are responsible for clearing title. Currently, because the City has no processes in place for disposing of adjudicated properties, they do not follow through with clearing title to adjudicated properties after the redemptive period is up – because this would make the City responsible for liability, long-term maintenance, and so on.

The lack of clear title for adjudicated properties has caused some serious problems for past administrations’ attempts to deal with these properties. For example, Mayor Nagin’s administration did not clear title for the properties disposed of through the SOAP (Sale of Adjudicated Property) and DOAP (Donation of Adjudicated Property) programs before he sold and/or donated these properties to developers. This created severe delays and high expense (up to \$3,000 per property) before the developers could clear title to the properties and receive financing for development. In some cases, property titles were too complicated to clear fully. This meant the SOAP and DOAP programs were generally viewed as a policy failure; the Nagin administration’s experience has likely made the current administration less enthusiastic about engaging with adjudicated properties.

There are some alternative models for adjudicated property auction processes that do offer opportunities for clearing title and receiving title insurance. Usually, these models incorporate an interested potential purchaser providing a deposit to the government so that the government, or a government contractor, can conduct title research and determine whether the title can be cleared for a reasonable amount of money. If the title cannot be cleared, then the funds are refunded to the potential purchaser. If the title can be cleared, and the depositor buys the property at auction, then the funds are rolled into the purchase price – or, if another party buys the property at auction, the depositor receives a refund. If the property does not sell at auction, then the government keeps the deposit funds.

Governing Statutes: Louisiana R.S. 47:2196 – R.S. 47:2211. Louisiana Constitution Article 7, Section 25.

Top Opportunities for Soft Markets:

- 1) Work with the City to advocate for clear programs and pricing on adjudicated properties that “adjoin” (are next to) owner-occupied or community-organization-owned properties.
- 2) Advocate for a revolving fund strategy in which funds from sales of strong-market adjudicated properties would be partially dedicated to fulfilling the donation and title clearance costs for soft-market adjudicated properties.
- 3) Begin targeted acquisition strategies to buy and maintain vacant lots next to, or within, concentrations of properties that have had failed tax sales and been adjudicated.

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Summary: Adjudicated Property Donations or Sales

Addresses Back Taxes?	Generates Clear Title?	Advantages	Disadvantages
<p>Yes (depending on City's disposal method)</p>	<p>Possibly. Research is needed on City Charter, and title insurance company needs to be identified</p>	<p>1) Local governments have a fair amount of latitude in deciding how to dispose of adjudicated property:</p> <ul style="list-style-type: none"> – they can keep trying to sell it at tax title sale; – they can donate it to any entity; – they can sell it at public auction and set base auction prices in several different ways; – they can sell it for any price they choose (could be \$1) to an adjacent landowner who maintains the adjudicated property for one year. <p>2) This latitude means that adjudicated property acquisition is one of the easiest ways to reach real “community stewardship” goals, because the state laws do not mandate that properties be sold at public auction to the highest bidder.</p> <p>3) For alternative land uses and “clean and green” purposes that do not necessarily require clear title, adjudicated property acquisition is a very strong option for community ownership and stewardship of property.</p>	<p>1) The adjudication process does not grant clear title to the property. This means that, in order to develop an adjudicated property in the future, the purchaser will need to clear the title themselves and/or the City will need to develop a process of disposing of the properties that includes title research.</p> <p>2) Adjudicated properties in soft markets may have severe title challenges – some properties that have not had taxes paid in 15 or 20 years may have deceased owners and unknown succession challenges that will be difficult to resolve. However, more research would need to be done to determine exactly how significant this issue would be in the context of all adjudicated properties in the City; it could be that only a small percentage have this type of severe title challenge.</p> <p>3) The City administration would need to adopt ordinances and support programs related to the ability to dispose of adjudicated properties through auction, donation, or sale to adjacent landowners. Right now, more legal research is needed on the City Charter to determine which options the City can pursue.</p>

Policy Option 4: Code Enforcement and Sheriff's Sale

Definition: The “code enforcement” process allows a governing authority, like the City of New Orleans, to put liens on properties based on building code violations. This process can lead to elimination of dangerous conditions, and/or to properties being sold to new owners at public auction or “sheriff’s sale.”

How It Works: The City sends inspectors out to document properties’ blighted conditions. The City then sends notices to the property owners that a hearing will be held to determine the blighted status of their properties. If the inspection and noticing is conducted properly, and the hearing officer returns a “Guilty” judgment that the property is blighted, then the City can place fines or “liens” on the property’s tax bill in proportion to the number and type of code violations that are present. The City may also take measures to eliminate immediately dangerous conditions, like boarding unsecured structures or demolishing unstable structures, and add the charges for these services to the property owner’s tax bill as a lien.

If the owner of the property does not fix the condition of the property within 30 days and pay the “code liens” that have been placed on the property, then the Orleans Parish Sheriff can foreclose on the lien, seize the property, and sell the property at public auction. The prices at these public auctions are set by state law: at the first auction, the property must be sold for at least two-thirds of its appraised “market value,” while at the second auction, the property may be sold with no minimum bid.

Once the property is sold at public auction, all back taxes and liens that were owed by the previous owner become the responsibility of that owner; they are not transferred with the property. The process also grants free and clear title to the new owner; the owner is not required to get a lawyer and spend additional money to clear title to the property. These features mean that the City and organizations like the Center for Community Progress favor the code enforcement process as a tool for moving property into new owners’ hands, rather than tax title sale or sales of adjudicated property.

However, the process takes time and, because of the public auction requirement, there is no way to guarantee that community members or community-based organizations can obtain and steward the property long-term. Community members who attempt to purchase and renovate blighted property, but run into financial difficulties or need time to start work, may also become vulnerable to code enforcement fines themselves.

Governing Statutes: Louisiana R.S. 13:2575 – 13:2576

Top Opportunities:

- 1) Continue to pursue blighted and hazardous structures through the code enforcement process to get demolitions accomplished. There is no good way for soft-market communities to maintain or take control of blighted structures without risking fines and liability, unless funds are available for immediate renovation.
- 2) Track vacant-lot properties that come up for auction to determine prices, particularly at second auctions where base prices may be lower and present an opportunity for community acquisition.

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Summary: Code Enforcement and Sheriff's Sale

Addresses Back Taxes?	Generates Clear Title?	Advantages	Disadvantages
Yes	Yes	<p>1) Code lien foreclosure, unlike tax title sale and adjudication, offers both relief from high back-tax burdens (back taxes are removed from the property and assigned to the previous owner), and clean title for the property once the sale process is complete.</p> <p>2) Code lien foreclosure allows the Sheriff to sell properties with code enforcement liens on them at public auction for less than the fair market value of the property. At the first code lien auction, the Sheriff must receive at least two-thirds of the fair market value of the property in order to sell it. If the property goes unsold at this first auction, the Sheriff can then sell the property with no minimum bid at a second auction.</p> <p>3) If a property makes it to a second auction, community groups have a good chance of purchasing that property at a relatively low price.</p>	<p>1) Cannot guarantee community control; two-thirds of appraised value, which is the required minimum price at the first sheriff sale of code-lien foreclosed properties, will likely still be on the order of \$4,000-\$10,000 per lot. Community groups will be unable to come up with the funds to purchase many lots at these prices, and may be outbid by less-informed private investors.</p> <p>2) In general, auction processes in residential areas where market prices do not currently support residential development raise questions about what the new owners of the property intend to use the property for. Some may see the property as an investment and keep it up, or find the necessary subsidy to construct and sell housing; however, others may seek to put in noxious uses and/or may fail to maintain the property once the economics of their investment become apparent.</p>

Policy Option 5: Three-Year Acquisitive Prescription for Blighted Property

Definition: “Acquisitive prescription” is commonly called “squatters’ rights”; when someone who is not the official owner (the “possessor”) uses and maintains a property for a legally determined period of time, that person can gain legal rights to the property. In New Orleans, for property that has previously been declared blighted by an administrative hearing officer, the new “possessor” must use the property for three years in order to own the property. (For property that has not been declared blighted, this process will usually take 30 years, except under very special circumstances.)

How it Works: The person who would like to take possession of the property – the “possessor” – must post a notice on the property and file legal documentation showing their intent to take possession, and showing that the property has been declared blighted. They must also send notices by certified mail to the owner of the property, to all “adjoining landowners” who have land that borders on the property, and to any other parties with interests in the property (i.e. banks holding a mortgage on the property).

After all of that noticing is accomplished, the “possessor” must wait sixty days; after the sixty days are up, they can “possess” the property by accessing it, maintaining the lots and structures on the property, and demolishing any structures that have been declared hazardous by a hearing officer. They must also pay all back taxes and fees due to the government. If they do not complete all of these steps, their possession of the property is cancelled and it automatically reverts back to the previous owner.

“Adjoining landowners” who have property that borders on the blighted property have first right of possession through acquisitive prescription. If another person posts a notice of intent to possess the property, these adjoining landowners have the right to file their own notice of intent within 30 days after they receive their certified mail letters telling them about it, and they can instead take possession of the property by completing all the steps documented above.

This process is cumbersome and likely requires an attorney to ensure that the new owners are fulfilling all the necessary guidelines to take official possession of the property and quiet title after three years. It also requires full payment of back taxes and does not clear title to the property. However, for blighted and overgrown vacant lots that do not have significant back taxes on them, this strategy has the potential to complement alternative land use strategies like gardening, open space, recreational uses, urban farming, or water management.

Governing Statutes: Louisiana R.S. 9:5633

Top Opportunities for Soft Markets:

Identify vacant lots that are overgrown and could be declared blighted, but have low back taxes. Reach out to neighboring landowners to determine their interest. If no neighbors are interested, then develop a community maintenance strategy, work to get these properties officially declared blighted, and hire or find a pro bono attorney to assist with the acquisitive prescription process on these lots.

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Summary: Three-Year Acquisitive Prescription for Blighted Property

Addresses Back Taxes?	Generates Clear Title?	Advantages	Disadvantages
No	No	<p>1) This process can be used on any property that has been officially declared blighted by a hearing officer, no matter how entangled its ownership history, to at least guarantee the opportunity for legal community use and stewardship.</p> <p>2) Neighboring landowners have “first right of possession” – if another group or entity from outside the neighborhood attempts to exercise acquisitive prescription on a blighted property, then the neighboring owners can file their own petitions in court and prevent the outside group from possessing the property.</p>	<p>1) The “possessor” of the property through acquisitive prescription must pay all back taxes and liens, and must either demolish any blighted structures or renovate them and obtain certificates of occupancy within nine months. This will require a significant amount of capital for most blighted properties, which tend to have large amounts of back taxes and code liens.</p> <p>2) Even after the three-year acquisitive prescription period is over, the “possessor” will have “ownership and other real rights” to the property but will not have clear title to the property. This means redevelopment in the future will be difficult or impossible, though the possessor could continue to maintain alternative land uses and/or “clean and green” uses.</p>