

The Recession And Your Municipality: An Update On Foreclosures, Vacant Properties, Liens And Related Issues

Summer Municipal Legal Seminar

Presented by:

Julie A. Tappendorf
ANCEL, GLINK, DIAMOND, BUSH, DICIANNI & KRAFTHOFER, P.C.
140 South Dearborn Street, Sixth Floor
Chicago, Illinois 60603
(312) 782-7606
www.ancelglink.com
jtappendorf@ancelglink.com



Introduction

- Part 1: Foreclosures
- Part 2: Abandoned Developments
- Part 3: Land Use Opportunities

Part 1: Foreclosure Crisis



The State of the Market

- Each abandoned home costs the City of Chicago \$34,000 annually
- Cost of one foreclosure is approximately \$80,000 (municipal expenses, loss of value to foreclosed property and adjacent property, bank costs, etc)



Impact on Municipalities

- **Direct (Financial) Costs:**
 - Decrease in Revenues (taxes, fees, utility charges)
 - Demolition Costs
 - Building Inspections
 - Legal Fees and Court Costs
 - Maintenance and Security
 - Social Services
- **Indirect Costs:**
 - Decrease in Property Values
 - Devaluation of Community Character and Aesthetics
 - Crime

Property Maintenance Codes

- **Municipalities have the authority to enact property maintenance codes to regulate:**
 - Weeds, landscaping, and dead vegetation
 - Trash, junk, and debris
 - Building materials
 - Accumulation of newspapers, flyers, notices
 - Dilapidated and unsafe condition



Vacant Building Ordinance

- Maintain vacant buildings and properties
- Prohibit window and door boarding and encourage other security measures
- Remove discarded personal items, furniture, and appliances
- Secure vacant buildings (closure of windows, doors, gates and fixing broken windows)
- Weekly municipal inspections of vacant buildings and properties



Vacant Property Registry

- Require registration of all abandoned and vacant property within municipality
- Registration fee
- Post name and contact information of responsible party
- Monitor and enforce property maintenance
- Example: Gilberts and Oak Forest

Inspections

- All properties in vacant property registry
- Systematic exterior inspections
- Prioritized enforcement
- Monitor properties for compliance
- Registry shared with police and fire departments



Notifications

- Bank and Real Estate Service Company Databases
- Bimonthly E-Mail Blast
 - Informational Cover Letter
 - Foreclosure Database
 - Explanation of Relevant Code Sections
 - List of Local Contractors
 - Building Securing Companies
 - Junk Haulers
 - Landscape Contractors

Code Enforcement

- Administrative Adjudication of Code Violations
- Municipal Liens



Demolition

- Demolition, Repair, Enclosure, or Remediation



Finance Mechanisms

- Tax Increment Financing
- Business District
- Special Service Area

Property Acquisition

- Land Banking
- Eminent Domain



Recently Enacted Legislation

- **Public Act 96-856**
 - Notice to Municipalities of Mortgage Foreclosures
 - Priority Liens for Property Maintenance Activities
 - Authority to Secure & Enclose Vacant Structures
 - Consolidation of Priority Liens
- **Public Act 96-462**
 - Consolidation of Traditional Liens

Pending Legislation

- **H.B. 1195 and S.B. 2101**
 - Vacant Property Ordinance Authority
 - Land Banking Authority

Part 2: Abandoned Developments



Salvaging the Project

- Understand the status of the overall project



Resident Communications

- Websites and emails and blogs
- Board communication
- News media
- Town hall meetings



Responding to a Bankruptcy Filing

- **Municipality action**
 - Maintain infrastructure (public & private)
- **Legal issues**
 - Lift the automatic stay/emergency relief
 - Declare default and make demands on surety (completion agreements)
 - Assume or reject contracts
 - Preserve tax liens

Future Developer Considerations

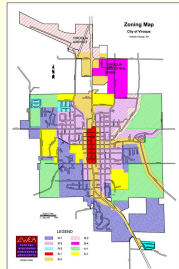
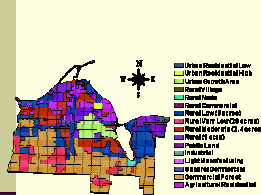
- Adequate assurance of future performance
- Dedication and conveyance of improvements
- Warranties
- Assist with marketing of development/ completion of the project
- Be flexible

Part 3: Land Use Opportunities

- Zoning
- Diversification of Land Uses



Zoning Strategies



Zoning

- Allow modest improvements to existing nonconforming properties
- Relief to distressed properties to reposition them for resale/redevelopment
- Zoning modifications for stalled developments
- Be flexible & creative



Diversification of Land Uses

- **Retail**
 - Generates sales tax
- **Service**
 - Generates traffic complementary to retail
 - Can generate sales tax
- **Office**
 - Increases day-time population -- more sales tax from restaurants and convenience-oriented retailers
- **Industrial**
 - Enhances utility taxes
 - Increases day-time population

Silver Lining?