

Headquarters:

111 E. Court St.
Suite 2C-1
Flint, MI 48502

National Office:

1001 Connecticut Ave. NW
Suite 1235
Washington, DC 20036

877.542.4842

communityprogress.net

TO: Miami Gardens City Leadership

FROM: Tarik Abdelazim, *Associate Director of National Technical Assistance*, and Matt Kreis, *Assistant General Counsel for National Initiatives*, from the Center for Community Progress (prepared for the National Resource Network)

DATE: July 22, 2016

RE: Assessment of Vacancy and Abandonment Challenges in Miami Gardens: Findings and Recommendations

I. Introduction

The Center for Community Progress (Community Progress) was retained by the National Resource Network (Network) to provide support to the City of Miami Gardens to better understand the systemic challenges presented by vacant, abandoned, and deteriorating residential properties, and where possible, offer practical recommendations on how to improve existing practices and interventions to more effectively address the negative impacts of these problem properties.¹

The observations and recommendations included in this memo, which serves as one of the deliverables pursuant to the Memorandum of Understanding the City of Miami Gardens executed with the Network as part of a broader package of technical assistance,² are informed primarily by the following:

- A preliminary review of the initial assessment report completed by the Network for Miami Gardens, online research, and introductory phone conversations with project leaders from Miami Gardens.
- A preliminary analysis of state laws pertaining to housing and building code enforcement systems and tax enforcement and foreclosure systems, two key systems related to vacancy and abandonment.
- A two-day site visit, during which Community Progress met with stakeholders from the City and key community partners (a list of the participants is included at the close of this memo).
- Community Progress' expertise in the systems of vacancy and abandonment—including code enforcement, tax enforcement and foreclosure, information management, and land banking—as well as of national best practices and

¹ For purposes of this memo, problem properties will be used to collectively refer to any vacant, abandoned, or deteriorating residential property that exhibits signs of distress, including but not limited to recurring violations of housing and building code; tax delinquency; prolonged vacancy; lack of utility services; or criminal activity.

² As part of the Network engagement, other consultants were also retained to offer professional coaching to the new Police Chief, and guidance on the City's planned investment of \$60 million in parks and recreation amenities and neighborhood safety efforts.

creative interventions to minimize the negative impacts of vacancy and abandonment.

In working with communities across the country, Community Progress finds that success typically involves three essential components: (1) Capability to identify the problem, (2) Strong local leadership, and (3) Ability to design appropriate and flexible solutions.

First, City officials and stakeholders have demonstrated the capability to identify the problem. And though data collection and management can always be improved upon to better understand the problem, which we discuss later in this memo, City leaders have identified and reported to us two major subsets of problem properties:

1. A large inventory of bank foreclosures—approximately 2,100 of the estimated 3,000 vacant properties are ongoing bank foreclosures and/or real estate owned (REOs)—exacerbated by a lengthy foreclosure process that, according to City officials and online research, takes approximately 890 days.
2. A prevalence of “heir properties,” a term that can be used to describe property where the owner is deceased and the lack of an existing will or estate plan fails to cleanly pass title of the property to an identified successor. This lack of clear succession can not only lead to fractured and unclear title (which is a major and costly impediment to the transfer of real property), but also results in the absence of a single owner willing to assume responsibilities for maintenance and tax liability of the residential property.

While better understanding the specific type of problem property is the first step, it is imperative that the second component, strong local leadership, is present. In our view, the leadership of Miami Gardens brings a sophisticated, informed approach to challenges presented by problem properties, and is both utilizing the tools and interventions available to the City under state law, as well as pursuing unique strategies, such as a lawsuit against major lenders for violations of the Fair Housing Act and a \$60 million general obligation bond to support parks and neighborhood safety improvements.

The third component, the ability to design appropriate solutions, is where the bulk of our analysis was focused. Designing successful solutions requires an understanding of the key systems that local governments can leverage to address problem properties, particularly code enforcement systems, delinquent property tax enforcement systems, and data systems. Community Progress strongly encourages communities to better understand how the statutory and regulatory framework provided by state and local laws can either block or bolster efforts to design appropriate and effective solutions related to those systems. Our experience has shown that the legal systems themselves, specifically those pertaining to code enforcement and tax enforcement, can not only limit a community’s ability to tackle the challenges posed by problem properties, but also directly contribute to the problem.

Our assessment of the systems identified in the remainder of this memorandum indicates that Florida state laws and policies virtually eliminate the ability of local governments to utilize key leverage points in both code enforcement and tax enforcement systems, effectively blocking Miami Gardens from emulating successful practices seen across the

country to minimize the negative impacts of problem properties. Specifically, three of the most critical legal barriers, each of which make accessing problem property extremely difficult, are:

- a. **Code liens lacking sufficient priority status**, which greatly undermines a local government's ability to either recoup costs or compel the transfer of a problem property to a responsible owner.
- b. **A powerful homestead exemption**, which further dilutes a local government's ability to enforce its code liens.
- c. **The requirement to sell tax liens**, which places the interests of private investors over the public interest, and leaves communities vulnerable to speculation.

In the face of such barriers, with systemic reform at the state level unlikely, local governments need to think creatively about the challenges presented by problem properties. Despite these barriers, our site visit and research suggest there are a number of opportunities for City leadership to consider as it looks to more effectively address the negative impacts posed by problem properties. In the next two sections, we summarize our findings and recommendations relevant to the preventative systems of code enforcement and tax enforcement, followed by the practice of data management and data-driven decision-making in Miami Gardens.³

II. Preventative Systems: Code Enforcement and Tax Enforcement

Community Progress provides guidance to communities in implementing effective, efficient, and equitable code enforcement and tax enforcement systems as a key preventative mechanism to minimize the impacts of problem properties.

For example, we often share with communities our ideal code enforcement approach, which is neatly summed up with the following phrase: "Fit it Up, Pay it Up, or Give it Up." Since compliance is always the primary goal, an effective housing and building code enforcement system deploys the tools at its disposal in a manner that first seeks to encourage or incentivize property owners to quickly repair property violations and comply with housing and building codes ("Fix it Up"). If a property owner fails to comply, then the code enforcement process must authorize the local government to remedy the violation, then hold the owner responsible for the tax dollars expended to address the problem, and encourage accountability with an appropriate penalty designed to deter future violations ("Pay it Up"). Should a capable and competent property owner⁴ still fail to comply and fail

³ The following analysis should not be considered legal advice and leadership should consult with local counsel before relying on the observations or recommendations contained within.

⁴ The phrase "capable and competent" is intended to mean that the owner has the resources and abilities to comply, but neglects to do so, in effect externalizing the costs of property maintenance onto the community writ large. However, some owners may be unable to comply with housing and building codes because of a lack of resources or abilities, and an *equitable* code enforcement program should be able to treat such cases differently. Such owners should not immediately face the loss of property, but instead be connected with resources or assistance to find a solution that is both beneficial to all parties while still insuring the health and safety of all residents.

to reimburse the public for tax dollars expended and penalties, then the process should facilitate the transfer of the property to a new responsible owner (“Give it Up”). The deployment of each set of tools must be tailored to anticipate the involvement of a number of different public and private actors and the preferred end-use strategies agreed upon by local leaders and community stakeholders.

As mentioned above, Florida state law makes it difficult to create an ideal approach to housing and building code enforcement, since it confers such low priority status to code liens. Despite these challenges, the City is working within these limits to tackle housing and building code enforcement with some success. The following observations, findings, and recommendations, which recognize the difficulty in achieving meaningful state reforms, are meant to help local leaders and stakeholders understand where minor process and organizational improvements can be pursued to achieve more positive outcomes.

Observations and Findings:

- 3.1 The Code Enforcement Division currently operates with seven code enforcement officers in the field, which is down from its high of 12 in 2010, and was relocated within the last year to the Police Department.
- 3.2 The reorganization offers opportunities to improve coordination with the Police Department’s Community Enrichment Team, which includes a dedicated Nuisance Abatement Officer. Currently, there is minimal coordination on data-sharing and analysis of nuisance conditions between the Code Enforcement Team and the Nuisance Abatement Program.
- 3.3 The City has three different authorities that hear code violation matters: a special master for general building/property standards violations, an Unsafe Structures Board primarily for demolition matters, and a Nuisance Abatement Board, which primarily addresses certain criminal activity on private property.
- 3.4 Cases heard by the Unsafe Structures Board seem to be limited to unsafe structures that are seriously deteriorated and in need of demolition. The City has a relatively short, but comprehensive, list of structures that meet this criteria (only 30 properties citywide), and a knowledgeable staff member that is dedicated to this relatively efficient enforcement process. Officials report the process generally takes about 180 days from first notice to the actual demolition.
- 3.5 Some City officials, including the City Attorney, remarked that state and local nuisance laws are underutilized, and actions could likely be taken to qualify a wider pool of problem properties as nuisances. Currently, most matters brought before the Nuisance Abatement Board in Fort Myers are nuisances related to criminal activity occurring on real property, such as prostitution, gangs, and drugs. Qualifying a property as a nuisance allows the City to take advantage of additional abatement remedies.⁵

⁵ See Miami Gardens Code of Ordinances (“MGC”), Section 16-64 (Municode 2016), for example.

- 3.6 The City uses a Special Master⁶ to hear and rule on all other housing and building code enforcement matters, which in the absence of a reasonable defense from the property owner, typically results in the Special Master affirming the violation, the required remedy, the time period to cure, and if appropriate, the fine and costs for which the owner may be liable in the event of failure to comply with the Master's order.
- 3.7 In the event of non-compliance, fines and hard costs (those costs incurred by the City to remedy the violation, such as mowing high grass and weeds, boarding and securing the property, and demolishing an unsafe structure) levied by either the Unsafe Buildings Board, the Nuisance Abatement Board, or the Special Master may be placed as a lien on the property.
- 3.8 State law and local policy renders most code liens of little functional value,⁷ severely limiting a local government's ability to recover costs, or compel a transfer to a new, responsible owner. City officials reported approximately \$68 million in outstanding code liens at the time of our visit, with fines accounting for more than 95% of this outstanding amount.
- 3.9 The City contracts with a third-party vendor, Community Champions, to administer, manage, and enforce the City's Vacant Property Registration Program, which applies to commercial and residential properties. The local ordinance was amended in April 2011 to ensure properties that became vacant through a mortgage foreclosure were required to register. According to City officials, the registry currently includes about 2,100 properties.
- 3.10 The City has recently created (and tested) an administrative foreclosure program, in which the City will seek to enforce their existing code lien through a judicial foreclosure. Given the junior priority status of code liens, as noted above in 1.6, the City has established criteria for pursuing this remedy: (a) there is no mortgage, (b) the finances for renovation and resale "pencil out", and (c) a buyer is identified in advance, with homeownership as the preferred final outcome.
- 3.11 A number of City officials acknowledged that some of the main challenges related to housing and building code enforcement are "cosmetic issues," specifically homes that need to be repainted, lawns that need better irrigation and watering systems, and dead patches of grass immediately adjacent to the road where occupants park their cars due to short driveways and limited parking capacity.

Recommendations

- 3.12 Consider creating a task force with a focus on problem properties. The task force should include representation from the Police Department's Community Enrichment Team and Code Division, Attorney's Office, Community Development, IT Department, City Council, and Manager's Office. The task

⁶ See, MGC, Sections 8-23 through 8-25.

⁷ Even though many of these laws allow local governments to enforce unpaid code liens as though they were court judgments or through foreclosure (see, e.g., MGC Section 8-61), the failure of those laws to elevate the status or priority of code liens means that any enforcement action is subject to most other recorded liens or interests in the property.

force should meet regularly, perhaps weekly at first and then monthly, and be chaired by a senior manager who is directly accountable to the City Manager.⁸

- 3.13 Consider developing a community education program on Code Enforcement to be administered and managed jointly by members of the Community Enrichment Team and Code Division.⁹ Because the Community Enrichment Team is already invited to speak at a number of monthly neighborhood homeowner's association meetings, outreach for such a program could be aided by adding a Code Enforcement or Property Maintenance educational segment at those meetings.
- 3.14 Consider prioritizing the cases of all 30 structures currently on the City's proposed demolition list, announcing the aggressive campaign as part of a new, more comprehensive approach to neighborhood stabilization and revitalization. Funds to carry out this intervention, estimated at \$300,000 by City officials, could come from the more than \$8 million in anticipated sale proceeds of vacant commercial land, as reported by City officials. Consider identifying in advance which properties meet the City's criteria of pursuing an administrative foreclosure. For those properties, immediately record the lien after demolition, and pursue the administrative foreclosure to secure title to vacant land in order to support residential infill.
- 3.15 Consider requesting the City Attorney to research and render an opinion how a transfer of ownership impacts the City's enforcement process for demolition orders of unsafe structures when that transfer occurs after the unsafe structure enforcement has begun but before the enforcement process is complete. Given the City's practice of providing what seems to be fairly extensive notice to all parties with an interest in the property, the City may be restarting the process unnecessarily, on occasion delaying what is typically an efficient process.
- 3.16 While some City officials believe rebuilding the capacity of the code enforcement division is key to more effectively addressing vacancy and blight, using limited general fund dollars to hire a couple more code enforcement officers will most likely have minimal impact and is unlikely to yield better outcomes, as evidenced by the significant balance of outstanding code liens and restrictive state laws and policies undermining effective and efficient enforcement.
- 3.17 Given the costs and enforcement challenges presented by heir properties, consider partnering with a community group or regional agency to conduct a pilot program in offering estate planning services and support for senior homeowners as a proactive and preventative measure. Potential partners may include the Miami-Dade Affordable Housing Foundation Inc. (MDAHFI), Alliance for Aging, Legal Aid Services of Miami-Dade, or HOPE Inc. Targeted population for a pilot program could be easily identified by referencing senior citizen property tax exemptions.

⁸ Given this is a shift in workplace culture and practices, it is reasonable for task force membership to initially be limited to City officials. However, as the task force matures and moves to monthly meetings, Community Progress strongly supports involving community partners and resident leaders from neighborhoods most impacted by problem properties.

⁹ Fort Myers has created a robust community education program on code enforcement, including the creative and fun "Code Man Hero" website: <http://www.codemanhero.com/>.

- 3.18 Consider exploring the possibility of using stormwater utility fees to support a program for homeowners to replace the patch of grass immediately adjacent to the road with permeable pavers or other surface to create a more durable, functional and aesthetically pleasing strip to park cars.

III. A Data-Driven, Market-Informed, Community-Based Approach

No matter how difficult to implement in the face of restrictive state law, a systems-based approach to vacancy and abandonment needs to be data-driven, market-informed, and consistent with community priorities. The administration is knowledgeable and professional, but like many other local governments we work with, it seems inter-departmental coordination and communication can be greatly enhanced and improved. Departments are currently attacking vacant, abandoned, and deteriorating properties in a “siloes” fashion, with only those tools at their immediate disposal. Investments are scattered throughout the City, and interventions are mostly uncoordinated.

Despite this, there is a strong understanding among most of the participants we interviewed that a more focused and coordinated approach to key neighborhoods would be a more effective way to invest limited resources, both dollars and hours. What is lacking is the right forum to develop and reach agreement on this approach, and informed, bold political leadership to drive implementation. The following findings and recommendations are meant to offer some guidance on how to move this effort forward.

Findings and Observations

- 4.1 City officials and stakeholders acknowledge the City lacks a common vision and proactive, comprehensive approach to neighborhood stabilization and revitalization efforts.
- 4.2 Most City department leaders seem to be aware, to varying degrees, of the efforts of other departments as it relates to vacancy and blight, but seem to lack awareness of the value in coordinating efforts and investments.
- 4.3 While there is a strong understanding of the local challenges and problems, there seems to be less focus on collecting, integrating, and analyzing the various datasets that departments individually use to strategically address different problems with the appropriate local intervention or tool.
- 4.4 Tax enforcement functions are carried out by the County, and there does not appear to be a strong, steady partnership between the County and City toward effectively tracking and understanding tax delinquency and tax certificate status within the various neighborhoods in Miami Gardens, particularly as those data sets relate to vacancy, abandonment, and blight.
- 4.5 The registry list managed by Community Champions does not seem to be cross-referenced or utilized effectively in the enforcement of housing and building code violations on vacant, registered properties.
- 4.6 According to conversations with principals at Community Champions, approximately a dozen communities in Florida are forwarding code violations on

registered properties to the vendor, who is then utilizing their contacts and relationship base to compel compliance and action—additional support that is carried out under existing base contracts for registry services. Also, a couple larger metropolitan areas with a more robust CDC-infrastructure are successfully accessing the registry to identify potential properties for acquisition.¹⁰

- 4.7 City officials acknowledged having an account with the Neighborhood Community Stabilization Trust (NCST),¹¹ but underutilizing this resource. NCST is currently supporting the Neighborhood Stabilization Initiative (NSI),¹² a federal program operating in 18 metropolitan-areas, including Miami-Dade County, to help reduce the inventory of real estate owned properties (REOs) held by Fannie Mae and Freddie Mac.
- 4.8 According to the Network’s Initial Assessment Report, “median home sales fell by 61% between 2007 and 2011.” However, between 2011 and 2014, median home sales price rose by 45% or more in 9 of the 14 census tracts in Miami Gardens, including neighborhoods like Bunche Park, which officials identified as one of the most distressed areas in the city.¹³
- 4.9 According to Miami-Dade’s online GIS portal, there are very few vacant residential lots in Miami Gardens. A privately-owned vacant residential lot in Venetian Gardens, one of the City’s targeted neighborhoods, has a fair market value of \$37,000.
- 4.10 Officials reported significant increase in permitted activity, another positive indicator that the market is moving in the right direction.

Recommendations

- 4.11 Consider having the newly formed task force collect, integrate, and analyze the data and field knowledge from multiple City departments, and within 90 days, finalize a list of the “Top 20” problem properties, excluding those already identified as unsafe structures slated for demolition, with appropriate actions to be taken for each of the 20 properties. Datasets that could support this analysis, and serve as “Blight Indicators” for ongoing tracking and analysis, might include: (a) abandoned property registry managed by Community Champions, (b) unsafe structure list, (c) code violations and code liens, including amount

¹⁰ Community Champions representatives report that nonprofit housing developers in Tampa Bay and Jacksonville have made multiple purchases of vacant properties pending foreclosures, and used the registry to identify these properties as well as the appropriate contact.

¹¹ The National Community Stabilization Trust (www.stabilizationtrust.org) is a national nonprofit organization that works to facilitate the transfer of vacant and abandoned properties between financial institutions and local community-based housing providers to support neighborhood stabilization and revitalization efforts.

¹² A basic summary of NSI is provided here, <http://www.stabilizationtrust.org/programs-services/property-acquisition/neighborhood-stabilization-initiative>, but without an account with NCST, we were unable to identify if any of the inventory in the Miami-Fort Lauderdale-West Palm Beach metro area exists in Miami Gardens.

¹³ Source: Boxwood Means, Policymap (www.policymap.com)

owed,¹⁴ (d) criminal activity, (e) tax certificates held by the County and/or properties on the list of lands available for taxes, and (f) water service accounts shut-off for 60 days or more for lack of payment.

- 4.12 The newly formed task force might consider overseeing the development of an action plan for Venetian Gardens and Riverdale, two neighborhoods identified by City officials as key transitional markets. City management may want to challenge department heads and division leaders to identify actions, programs, and investments—such as crime prevention, CDBG-eligible activities, and parks and recreation upgrades—that can support revitalization efforts in these targeted neighborhoods, and the task force can help outline goals and strategies based on this cross-departmental feedback.
- 4.13 City leadership might consider engaging community stakeholders, such as MDAHFI, Florida Memorial University, and faith-based neighborhood anchors, in the development of this action plan and invite stakeholders to align resources and activity pursuant to common goals.
- 4.14 City leadership may want to open discussions with Community Champions to discuss how their registry can be better utilized under the existing service contract, specifically as it relates to assistance with gaining compliance with code violations on registered properties and potential acquisitions in strategic neighborhoods.
- 4.15 City leadership should consider utilizing NCST more frequently, connecting with a representative working on NSI in the Miami-Dade County region, and communicating opportunities to the task force.

IV. Conclusion

Our site visit and legal research helped inform this memo, which serves as one of the key deliverables of our technical assistance engagement with the City of Miami Gardens through the Network. It is intended to help inform and guide future conversations and actions the City and its partners deem appropriate and feasible as it looks to not only address the negative impacts of vacant, abandoned, and deteriorating residential properties, but also develop a more comprehensive and coordinated approach to neighborhood stabilization and revitalization efforts for the benefit of all residents. The recommendations are meant as a menu, meaning the pursuit of one might make another less meaningful. Ultimately, these are offered as options for City leadership to review, explore, and pursue only as they deem appropriate with local stakeholders.

Community Progress would like to thank the following individuals for sharing their insights and experiences with us during our two-day site visit:

- Oliver Gilbert, Mayor
- Lisa Davis, City Councilwoman

¹⁴ It would be helpful to delineate between fines and hard costs. The City may also track the number of work orders issued to private contractors to either mow lawns, collect trash and debris, or board and secure properties—which is also useful information in figuring out which distressed properties to prioritize.

- Craig Clay, Assistant City Manager
- Joan Bispott, Code Compliance Manager
- Karen Vasquez, Permitting and Licensing Clerk
- Laurin Yoder, Community Development Director
- Sergeant Alonsa Mancur, Community Enrichment Team
- Sonja Dickens, City Attorney
- Audrey Robertson, Executive Director, Miami-Dade Affordable Housing Foundation, Inc.
- Sherwood Dubose, Board Chair, Jessie Trice Community Health Center
- Cynthia Curry, VP of Finance and Administration/CFO, Florida Memorial University

Community Progress is eager and excited to continue supporting this important community discussion through the planned day-long learning exchange in October with a delegation from Fort Myers, as well as ongoing on-call technical assistance following the exchange.