Bank Walk-Aways
Ohio Land Bank Conference
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Foreclosure is no longer functioning as the remedy it was intended to be

<table>
<thead>
<tr>
<th>Past</th>
<th>Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>• One foreclosure on a street of 40 homes.</td>
<td>• Multiple foreclosures and multiple vacancies on a street.</td>
</tr>
<tr>
<td>• Bank forecloses on a $100K loan, takes back at Shf Sale, sells and recovers $90+K.</td>
<td>• Homes sell at Sheriff Sale for $5-10K.</td>
</tr>
<tr>
<td>• Little impact on local housing market.</td>
<td>• Housing market devastated.</td>
</tr>
</tbody>
</table>
**Cause ➔ Effect ➔ Cost**

- Foreclosure
- Abandoned Homes
- Home Sale Prices Down
- Homeowner Equity Down
- Uncollected Property Tax
- Unrecovered Demolition Costs
Example: Lost Tax Revenue

- Cuyahoga County 26,728 vacant homes
  - $43,969,608 current tax delinquency on these properties

- City of Cleveland 15,976 vacant homes
  - $29,244,753 current tax delinquency on these properties

Vacancy and delinquency counts as of 10/24/12.
Source: NEO CANDO at Case Western Reserve University.
Example: Demo Estimates For City of Cleveland

15,976 Vacant Homes
6,974 Likely Condemnable
$69,740,000 Estimated Current Demo Cost
6,500 Likely Condemnable Next Five Years
$65,000,000 Additional Demo Cost
$134,740,000 Total Demo Cost Next Five Years

Source: NEO CANDO at Case Western Reserve University and Vacant and Abandoned Property Action Council (VAPAC).
These Costs Represent An Unprecedented Shift of Private Liability to the Public Taxpayer
Cities and Housing Advocates
Push Back

- Municipal (criminal) Code Enforcement
- Private (civil) Code Enforcement litigation
Municipal Code Enforcement
Cleveland Examples

- New Cleveland ordinance holding prior owners financially responsible.
- Cleveland Condemnation Task Force.
- Targeting of Corporate and Bulk Holders.
- Civil Debt Collection to Recoup Costs.
- Fines levied by Housing Court Judge Ray Pianka.
Private Code Enforcement
Cleveland Example

- Neighborhood Progress Public Nuisance Lawsuit against Deutsche Bank and 9 Servicers

- Objectives:
  - Low-value ($20,000 or less) offered as donation to County Land Bank.
  - Condemned (regardless of value) offered as donation to County Land Bank.
  - Up to $10,000 paid to the County Land bank for any that require demolition.
Sound Good? There’s a Catch.

As efforts to hold banks accountable for blighted property have increased – some banks have elected to “walk-away” i.e. abandon the foreclosure process prior to taking title at Sheriff Sale.
When Does a Bank Walk Away?

Whenever they realize the property is vacant, distressed and lacks value.

- After default notices sent, but before filing.
- After foreclosure filing, but before judgment by the court.
- After judgment, but before Sheriff Sale.
- After Sheriff Sale scheduled, but before sale.
- Or, the bank could simply not show up at the sale and make no bid.
“Catch-22 says they have a right to do anything we can't stop them from doing.”
## Case Study: 17830 Harlan Avenue

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/6/2004</td>
<td>Home bought for $91,900</td>
</tr>
<tr>
<td>10/6/2004</td>
<td>Mortgage from Long Beach (Washington Mutual)</td>
</tr>
<tr>
<td>7/27/2006</td>
<td>Washington Mutual sells mortgage to Deutsche</td>
</tr>
<tr>
<td></td>
<td><em>(but retains servicing rights?)</em></td>
</tr>
<tr>
<td>2008</td>
<td>Chase buys Washington Mutual</td>
</tr>
<tr>
<td>9/30/2008</td>
<td>Loan modified - $111,801 - 40 years</td>
</tr>
<tr>
<td>3/3/2009</td>
<td>Foreclosure is filed by Deutsche Bank</td>
</tr>
<tr>
<td>7/29/2009</td>
<td>Judgment in favor of Deutsche Bank</td>
</tr>
<tr>
<td>8/5/2009</td>
<td>Deutsche pays $500 for Shf Sale</td>
</tr>
<tr>
<td>8/20/2009</td>
<td>Sherriff ordered to conduct sale</td>
</tr>
<tr>
<td></td>
<td>Property discovered vacant??</td>
</tr>
<tr>
<td>10/5/2009</td>
<td>No bid at Shf Sale</td>
</tr>
</tbody>
</table>
### 17830 Harlan Avenue, continued

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/21/2009</td>
<td>Motion by Deutsche to vacate judgment</td>
</tr>
<tr>
<td>11/12/2009</td>
<td>Judge denies the motion</td>
</tr>
<tr>
<td>2009</td>
<td>Last property tax paid by bank</td>
</tr>
<tr>
<td>5/12/2011</td>
<td>Property is condemned</td>
</tr>
<tr>
<td>2012</td>
<td>Delinquent tax is now $6,367</td>
</tr>
<tr>
<td>12-Feb</td>
<td>Northeast Shores CDC willing to renovate</td>
</tr>
<tr>
<td>12-Feb</td>
<td>Asks Chase to transfer lien to them</td>
</tr>
<tr>
<td>12-Feb</td>
<td>Chase declines, only willing to release the lien</td>
</tr>
<tr>
<td>12-Apr</td>
<td>Chase files a Release of Lien with the Recorder</td>
</tr>
</tbody>
</table>
Options for Stopping Bank Walk-Aways

1. Cities could stop enforcing housing codes when banks take title at Sheriff Sale, or issue softer penalties than those for other property owners.¹

2. Find banks in Contempt of Court for failing to proceed to Sheriff Sale after obtaining a foreclosure judgment. [Judge Nancy Russo, Cuyahoga Common Pleas Court].

¹A facetious provocation.
Options for Stopping Bank Walk-Aways

3. Adopt NJ Statute – foreclosing banks are liable for code violations if property goes vacant any time after filing foreclosure.

4. Strictly enforce local housing codes that include accountability for “any party in possession or control”, i.e. a mortgage servicer or foreclosing lender that changes locks on the property.
Options for Stopping Bank Walk-Aways

5. Require foreclosing banks to post a $10,000 bond upon filing foreclosure, to insure against demolition cost if property is abandoned.

[State statute or could this be a local ordinance? Canton requires a bond, but only after a bank takes title.]
Role of Land Banks

Land Banks probably can’t stop walk-aways and they can’t bring about magical happy endings.
Role of Land Banks

1. They *may* be able to do limited advocacy for policy changes to stop walk-aways.
2. They can offer to be alternative disposition vehicles for banks feeling pressure to not walk-away.
3. But they should resist being the dumping ground for bank garbage – insist that donated REO comes with funding for demolition.
Cleaning Up After The Foreclosure Tsunami: Tackling Bank Walk-Aways and Vulture Investors

The story of the American foreclosure crisis begins with reckless and abusive lending that leads to a wholesale emptying out of homes. But the story is far from over.

By FRANK FORD

http://www.shelterforce.org/article/1864/cleaning_up_after_the_foreclosure_tsunami_tackling_bank_walk-aways_and_vult/P0/
Questions – Ideas – Discussion
PLAINTIFF'S MOTION TO VACATE JUDGMENT AND DISMISS THE CASE IS DENIED.

PLAINTIFF STATES IN ITS MOTION THAT THE BASIS FOR THE MOTION IS THAT "IT NO LONGER WISHES TO PROCEED WITH THE FORECLOSURE."

DESIRING NOT TO PROCEED WITH A FORECLOSURE THAT HAS ALREADY BEEN DISPOSED OF IS NOT AN APPROPRIATE BASIS TO VACATE JUDGMENT.

PLAINTIFF'S STATES THAT ANOTHER BASIS FOR VACATING THIS JUDGMENT IS BECAUSE "THE ACCOUNT HAS BEEN CHARGED OFF."

CHARGING OFF A LOAN IS NOT AN APPROPRIATE BASIS FOR THE VACATING OF A JUDGMENT.