



# COORDINATING THE AUTHORITY AND RESOURCES TO REMEDIATE BLIGHT

This Memorandum summarizes Report #415

## In a nutshell

- The term blight is used to describe properties that are marked by a demonstrated pattern of deterioration in physical, economic, or social conditions. Blight can exist in urban, suburban, and rural communities, but each community's response to the problem will be different.
- Blight prevention and remediation generally is a public good that benefits the entire community and, especially, neighboring residences and businesses. Local governments are tasked with managing blight within their boundaries; their efforts are supported by state laws and programs, as well as federal funds and programs.
- Possible solutions to more effective blight prevention and management include taking a more regional approach to anti-blight policies; greater collaboration among counties, local governments, and the private sector; increasing community buy-in and support; and, where appropriate, providing local governments with more diverse funding streams to provide the resources needed.

The term blight came to use in a botanical concept to describe plants that were in a state of disease or injury. It was adopted by social scientists to describe the economic and social disease in communities with properties that are in disrepair and/or neglected and abandoned. Blight is a complex issue that impacts communities across the state and country, but it is also a local issue that can be hard to quantify on a state or national level. Blight can exist in urban, suburban, and rural communities, but each community's response to the problem will be different.

State law defines blight and provides policy options (e.g., land banks) for local government management of blight. Local ordinances further clarify what is considered blight in their communities and the tools (e.g., code enforcement) used to address it at the local level.

Michigan can learn from practices in other states, but local government are not lacking statutory tools for combatting blight. State and local policy and tools may need to be amended to allow for more regional blight management at the county level. However, the biggest issue facing Michigan communities addressing blight problems is a lack of consistent funding sources.

The answer may not be in dedicating specific funding sources to blight remediation, but in giving local governments more diverse funding streams so that they can better fund their priorities from their general funds.

## The Characteristics of Blight

Michigan state law<sup>1</sup> defines a blighted area as a portion of a city or township that may be developed or undeveloped and may contain business or residential uses that are marked by a demonstrated pattern of deterioration in physical, economic, or social conditions. It further classifies a property as blighted if it meets the following criteria:

- It has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- It is an attractive nuisance<sup>A</sup> because of physical condition or use.
- It is a fire hazard or is otherwise dangerous to the safety of persons or property.
- It has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of one year or more so that the property is unfit for its intended use.
- It has code violations posing a severe and immediate health or safety threat and has not been substantially rehabilitated within one year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

Blight remediation is largely left to local government officials, but state government establishes the legal parameters from which local officials derive their authority to enact and implement policies designed to prevent, mitigate, and remove blight.<sup>2</sup>

A Attractive nuisance is defined as a dangerous condition on a landowner’s property that may particularly attract children onto the land and pose a risk to their safety.

Community decline is cyclical in nature. If a local government does not have the funds to address blight and work to prevent it at the community level, then businesses and residents with the means to do so leave the community, and this, in turn, leaves less tax revenue and more abandoned properties for an already struggling community. The “broken window theory” of blight states that vacant and abandoned properties with boarded doors, broken windows, and unkempt lawns can create a haven for criminal activity and attract more blight.<sup>3</sup> As each small problem remains unfixed, it affects people’s attitudes towards the environment and encourages more problems.

### Blight as a Government Issue

The motivation for government management of blight has shifted over the years. In recent years, the focus has shifted from economic development, which can occur at the expense of blighted neighborhoods in a community, to economic stability, which considers the needs of the broader community, including those neighborhoods most affected by blight. However, people still do not agree on the greatest threats posed by unmitigated blight. Some believe that the greatest threats are imminent health and safety concerns; others see social polarization and low employment opportunities; many see decreased housing market values and lower municipal tax revenues as the primary problems.<sup>4</sup>

Even though blight largely deals with private property, it occurs when the private market is failing; people do not walk away from their investment in their property when the market is succeeding. Additionally, economic stability is a public good and blight has many externalities that impact those other than the property owners who are neglecting or abandoning their property. The private market will not step in to stop blight unless it will provide a financial benefit, which is often not the case. Blight prevention and

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remediation generally is a public good that benefits the entire community and, especially, neighboring residences and businesses.

Government management of blight falls under its police powers and economic development interests. Ignoring blight or leaving it for the private sector to address has implications for a community's health and safety, as well as dealing with the economic and societal problems associated with unrestrained blight. Government is best equipped to manage and remediate blight and has a public interest in maintaining the attractiveness and safety of communities. However, the private sector often plays a

role in partnering with the government to manage and remediate blight.

Blight is an issue at the community level. Some local governments consistently struggle with the challenges of blighted properties in their communities, while some do not. Even across those communities noticeably impacted, the scale and scope of blight can vary considerably. Regardless of scale and scope, all local governments are investing in blight prevention to some degree, whether by targeted blight-reduction programs or general efforts to maintain and/or increase economic development in a community.

## Laws and Programs Addressing Blight

Blight is an issue that is preventable and can be remediated at the local level. Local governments are creatures of the state with authority granted and assumed. However, because many blight mitigation activities involve working with private property owners or taking property from them, local governments have worked with state lawmakers to enact laws explicitly granting them blight remediation authority. Several state laws, as well as federal, state, and local programs, aim to tackle blight remediation. Success can depend heavily on the public-private partnerships and community support to revitalize distressed neighborhoods.

### State Laws and Programs

State laws and programs provide the foundation for blight management in Michigan. The following laws are detailed in the full report, but just highlighted here:

- **Blighted Area Rehabilitation, Public Act (PA) 344 of 1945:** Authorizes municipalities to adopt plans to prevent blight and for the rehabilitation of blighted areas.
- **Neighborhood Area Improvements, PA 208 of 1949:** Provides municipalities with tools to improve areas in danger of becoming blighted.
- **County or Regional Economic Development Commission, PA 46 of 1966:** Allows for the creation

of a commission to plan and carry out economic development and expansion programs.

- **Economic Development Corporations Act, PA 338 of 1974:** Allows for the creation of public economic development corporations to address needs relating to housing or neighborhood improvement.
- **Land Bank Fast Track Act, PA 258 of 2003:** Provides for the creation of land bank fast track authorities to help local governments manage foreclosed and abandoned properties.
- **Brownfield Redevelopment Financing Act, PA 381 of 1996:** Creates brownfield redevelopment authorities (BRAs) to facilitate the implementation of brownfield plans, create brownfield redevelopment zones, and promote revitalization, redevelopment, and reuse of certain property, including tax-reverted, blighted, or functionally obsolete property.
- **Commercial Rehabilitation Act, PA 210 of 2005:** Offers owners of certain rehabilitated commercial facilities a property tax abatement.
- **Obsolete Property Rehabilitation Act, PA 146 of 2000:** Provides property tax breaks on the improved value of rehabilitated structures in eligible distressed communities.

- **Neighborhood Enterprise Zone Act, PA 147 of 1992:** Provides tax incentives for housing development and improvement in eligible distressed communities.

In addition to state laws and programs, federal funding programs and tax credits are available to support local efforts to mitigate blight.

Local efforts to prevent and remediate blight include planning and zoning policies, code enforcement, as well as economic development programs. Taking on ownership of properties is often challenging for local units because, unlike land bank authorities, the community development agencies of local governments do not have the authority to extinguish back taxes, which represents a real cost for local units. Additionally, pursuing eminent domain to rehabilitate a blighted area is legally arduous and costly. Land banks have the authority to extinguish back taxes but lack the funding to fully address blight in the communities they serve.

### Programs to Address Blight in Other States

Across the United States, cities are looking more at the social impacts of blight and not just the economic impacts. They are becoming laboratories for new poverty survival strategies. The focus has shifted from economic development to elevating housing as a human right and addressing poverty.

This section is not exhaustive but highlights some policies and programs aimed at addressing blight.

**Housing Courts.** Cleveland, Ohio and Buffalo, New York have dedicated housing courts that have exclusive jurisdiction over code enforcement violations, but also hear cases related to landlord-tenant issues, foreclosures, nuisance abatement, and receivership actions. The Cleveland court also employs housing specialists to provide counseling and assistance to landlords to help them achieve compliance.<sup>5</sup>

**School Partnerships.** A school district in Wisconsin is utilizing blight remediation as a hands-on learning

experience for their students interested in construction work. The property is sold after completion of the project meaning this model provides financial self-sufficiency, relevant experience for students, and cost-effective blight remediation for the area.<sup>6</sup>

**Blight Foreclosure.** The City of New Orleans can go through a process referred to as blight foreclosure where it uses the fines associated with code enforcement to go through a lien foreclosure process to recoup the money lost to unpaid fines. New Orleans can do this because Louisiana and a handful of other states have codified a procedure for the super-priority of remediation liens in state law. This process has made New Orleans a national model for blight reduction and has led property owners and lienholders to remediate property rather than having it taken by the city.<sup>7</sup>

**Social Impact Bonds.** Social impact bonds for housing revitalization were undertaken in Richmond, California, and have had some success. They are defined as “a financial mechanism where the private sector provides investment funds to the public sector for social benefits.”<sup>8</sup> In the case of Richmond, the city issued \$3 million worth of bonds to purchase, rehabilitate, and sell blighted properties. The bonds are issued by the city, but the city does not take on the risk of repaying the bonds. The sole source of funds for debt service will be proceeds from the sale of rehabilitated properties. Well-performing social impact bonds are attractive to local banks looking to meet their obligations under the federal Community Reinvestment Act, which has requirements related to meeting the needs of all types of borrowers, including low-income borrowers.

This was undertaken in partnership with the Richmond Community Foundation and strong collaboration between the city and private sector is essential to success. The program provides a great example of private for-profit companies partnering with nonprofits and government entities to address social problems in their communities.

## Funding Options to Manage Blight in Michigan

Michigan has provided its local governments with legal tools to manage and prevent blight, but these tools do not come with dedicated funding sources. A lack of dedicated funding means that local governments must fund blight management from either general fund dollars or find state and federal grants to support blight remediation. The problem with state and federal grants is that they do not provide consistent funding. That leaves many local governments relying on their general fund budgets for blight management funding.

Most local governments in Michigan are limited to property taxes as their only own-source tax revenue and they are highly dependent on these revenues. Furthermore, many local governments with concentrations of blight are already levying property taxes at high rates (and income taxes in most cases) and directing more of these resources for blight remediation would come at the cost of budgeting fewer dollars for other county and municipal needs (see **Table 1**).<sup>9</sup>

### The Benefits of Local Tax Options to Fund Blight Remediation

The Citizens Research Council has been saying for years that local governments are overly dependent on property taxes and need more diverse revenue streams.<sup>10</sup> Furthermore, local governments with the most blight also tend to be those with the least fiscal capacity to raise additional revenues from property taxes or any sources. High property tax rates can be a factor that contribute to blight so that limits the effectiveness of raising property tax rates to fund blight remediation. When owners are unable to care for homes because of aging, handicap, or other circumstances or unwilling to do it because the economic purpose of the property has been altered, increasing the cost of continued ownership by raising property tax rates is more of a hindrance than help.

### Regional Taxes

Successful blight management will require a partnership between all levels of government. Cities

**Table 1**

Tax Rates of Michigan Cities with Higher Concentrations of Blight, 2021

	Property Taxes (mills)		City Income Tax
	City Rate	Cumulative Rate	Resident Rate
Michigan Average		35.12	
Benton Harbor	25.51	51.39	1.0%
Detroit	28.95	75.75	2.4%
Ecorse	38.14	83.46	
Flint	18.69	58.88	1.0%
Hamtramck	24.14	60.80	1.0%
Highland Park	47.49	78.31	2.0%
Inkster	37.88	75.15	
Lansing*	19.27	61.14	1.0%
Muskegon	12.19	48.55	1.0%
Pontiac	17.36	43.18	1.0%
Port Huron	20.61	43.18	1.0%
Saginaw	7.32	50.97	1.5%
Ypsilanti	32.34	70.76	

Note: A mill is equal to \$1 of tax for every \$1,000 of taxable value.

\* Lansing residents in Clinton and Eaton counties pay slightly different property tax rates.

Source: Michigan Department of Treasury, Citizens Research Council of Michigan, Outline of the Michigan Tax System

and townships are better at identifying properties within their communities in need of remediation and can more accurately assess the needs of their community. Counties are more effective at working towards long-term goals, leveraging their funding to accomplish large scale projects, and maintaining consistency among areas within their jurisdiction.

Levying local-option taxes at the regional level generally leads to less competition and fewer negative externalities associated with the taxes. Socioeconomic and income inequalities are decreased at the regional level and levying local taxes at the regional level promotes a form of tax-base sharing that benefits the entire state.<sup>11</sup> Additionally, there are more than 1,700 potential taxing units at the local level, but only 83 counties. Funding at the county level could be more consistent, as counties are required to think more conceptually when planning, while local governments end their work wherever their jurisdiction ends.

### Potential Blight Funding Taxes

Ideally state policymakers would address the deficiencies in Michigan's local government finance structure to better equip local governments to fund essential services, such as blight remediation. Absent those changes, they could consider tax mechanisms to provide consistent funding streams for blight remediation.

**Income Tax.** Many of Michigan's urban communities already levy a local income tax so this may not be a valid option to raise more funds for blight remediation in urban communities. However, a local income tax could be authorized at the county level with funds dedicated to blight remediation and prevention (including economic development activities) throughout the county. Expanding local income taxes to a regional tax might provide funding across urban, suburban, and rural regions to manage blight and promote economic growth. It would require passage of a state law to allow for counties to levy income taxes. It would also require determining if services would be provided at the county level or if counties would share the revenues with their constituent local governments.

**Sales Tax.** A local sales tax is not currently an option in Michigan. If state law was amended to allow for a county or regional level sales tax, it could provide broad support for blight prevention and remediation for communities across the state if they voted to adopt the tax. However, it is not clear that the state could even authorize a local sales tax without amending the 1963 Michigan Constitution. The Constitution limits the state sales tax rate to six percent and earmarking provisions related to the sales tax would restrict any revenue the tax brings in.<sup>12</sup>

**Recording Fees.** State law provides for a \$30 recording fee that can be charged by county registers of deeds for entering and recording a document.<sup>13</sup> A portion of that fee (\$9) is dedicated to the counties' automation fund and the state survey and re-monumentation fund.<sup>14</sup> The balance of the fee helps to fund the register of deeds offices in county governments. An option for raising more revenue to support blight remediation would be to raise this fee; the fee captures a broad amount of transactions and has the potential to raise a lot of revenue. If the fee was raised \$10, Washtenaw County alone would collect an additional \$500,000 in annual revenue. A fee increase like this may be politically palatable because it represents an incremental change rather than broad policy change.

The connection to blight remediation is an attractive part of enhancing the recording fees. As properties are enhanced and location in the county is made more attractive, more transactions will lead to more fees. The problem is that the Michigan Supreme Court ruled in *Bolt v. City of Lansing (1998)* that fees must be proportionately priced to fund the services they are aligned with. User fees must serve a regulatory purpose rather than a revenue-raising purpose; they must be proportional to the necessary costs of the service or commodity and imposed on those benefiting from the improvement supported by the fee.<sup>15</sup> For recording fees to serve as a general funding source for local governments to address blight issues, they must be converted into a tax.

**County Real Estate Transfer Tax.** This tax was established in state law in 1966 and is a tax on

the exchange of real estate at the rate of \$1.10<sup>B</sup> for every \$1,000 of real property transferred.<sup>16</sup> In 1995, the state began to levy a real estate transfer tax (RETT) at a rate of \$7.50 for every \$1,000 of real property transferred.<sup>17</sup> The rates for these taxes have not changed since they were originally passed in 1966 and 1993, but they are indexed to the cost of real estate, which has increased greatly over that time period.

RETT funds are used to support county register of deeds offices and general funds. The counties in total collected \$52.3 million with an average of \$630,000 per county. Oakland County collected the most RETT revenue at \$9.6 million and Keweenaw County in the Upper Peninsula collected the least amount of RETT revenue at \$21,000.

This tax rate could be increased at the county level and earmarked for blight remediation and prevention. It would require authorization in state law and voter approval at the county level. As is the case for recording fees, there is a connection to blight remediation as it is a tax on real estate transfers

<sup>B</sup> If any county's population increases above 2,000,000, state law specifies that the county real estate transfer tax rate will increase to \$1.50 for those counties.

and blight directly affects the value of real estate in a community. Because it is tied to real estate transactions, the amount of funds raised in each county will reflect real estate activity in that county.

Increasing the RETT rate would increase the tax burden on prospective homeowners, businesses, redevelopers, and real estate companies. However, the state and county taxes currently represent a small portion of a property buyer's closing costs, and even at a substantially increased rate that dynamic would not change considerably. If the tax is increased by a factor of eight (\$8.80 per \$1,000 of real estate transferred – a rate higher than the state rate of \$7.50), it would result in a total tax of less than \$2,000 for the average Michigan home. This is a small amount when considering other costs associated with buying property, such as agent commission and fees. However, it does represent a real tax increase that would impact homebuyers in Michigan.

Allowing for the tax increase in state law does not mean that all counties would adopt the tax at the higher rate. Any tax rate increases must be approved by local voters according to the 1978 Headlee Amendment. Allowing for the rate increase in state law would give counties another financial tool to fund blight remediation within their borders.

## Conclusion

Michigan has the infrastructure to handle blight but generally lacks a consistent stream of funding necessary for that infrastructure to function and for successful blight remediation and prevention. Michigan's status as an older, industrial state that has seen the automotive industry, among others, leave the state has led to population decline and, in some instances, economic decline. Former industrial and commercial properties in many urban areas have been left as brownfields. Population declines and economic stress caused by the Great Recession have led to home foreclosures and abandonments. Some local communities have become blight traps and governments have been left with fewer funds to control and reverse this downward spiral. This is not limited to urban areas as rural areas have their own issues with blight and usually less funds and options to deal with it.

This paper highlights some of the current laws and programs to fund blight and discusses potential options to increase taxes or fees to provide more funding for blight remediation. Unfortunately, there are no ready-made sources of funding for blight remediation. Like all local government services, blight remediation finds itself competing for local funds every budget cycle. Rather than trying to adapt existing revenue sources to meet local governments' blight remediation needs, state policymakers could address the underlying problems confronting the revenue-raising capabilities of local governments in Michigan. However, addressing blight requires more than simply additional funds. It may require taking a more regional approach to anti-blight policies; greater collaboration among counties, local governments, and the private sector; and community buy-in and support.

## Endnotes

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