

AN ABANDONMENT CRISIS IN RENEWING NEIGHBORHOODS?
THE LIMITATIONS OF BOSTON'S VACANT BUILDING POLICY
AND
AND ALTERNATIVE POLICY APPROACH

by

Kelly Quinn

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Signature of Author _____
Department of Urban Studies and Planning
May 27, 1986

Certified by _____
J. Mark D. Schuster
Thesis Supervisor

Accepted by _____
Philip L. Clay
Chairman, Master of City Planning Committee

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by

Kelly Quinn

Submitted to the Department of Urban Studies and Planning on
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Degree of Master of City Planning.

During the Flynn administration, the City of Boston developed a policy on how to return vacant and tax delinquent buildings to residential use. The goal of the vacant building policy is to break the cycle of property abandonment and to increase the municipal tax base. To achieve these goals, the City developed legal and administrative mechanisms to return abandoned buildings to tax-paying owners.

However, an evaluation of the policy implementation revealed that the City may not be able to achieve these goals. Moreover, the policy approach of returning abandoned buildings to tax-paying owners may be counter productive to another important goal of the Flynn administration, increasing the supply of affordable housing for Boston's poor residents. The policy approach was criticized based on a review of the literature of neighborhood change, which revealed that Boston's vacant building policy does not address how the renewed profitability of Boston's residential real estate has changed abandoned buildings from economic losers to targets for investor-speculators. The policy focuses instead on property abandonment, which plagued Boston's inner city residential neighborhoods in the 1970s. The City's vacant building policy, in encouraging private for-profit ownership of vacant buildings, contributes to the gentrification of poor neighborhoods, and thus, to a loss of affordable housing.

An alternative policy approach to returning vacant buildings to residential use evolved out of the earlier analysis. The goal of the new policy is to create affordable housing out of abandoned buildings rather than to maximize the tax base. A proposed method of implementing such a policy relies on existing legal mechanisms and institutions, primarily the nascent Citywide Land Trust and regulations that control how investors use residential real estate.

Thesis Supervisor: J. Mark D. Schuster
Assistant Professor
Department of Urban Studies and Planning

This thesis is dedicated to my grandmother,
K. G., for showing me how to reach for my
dreams and then supporting the pursuit.

This thesis is a joint venture between myself and

The City of Boston
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my relatives
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I. INTRODUCTION

Boston is plagued by a striking development paradox. Vacant residential buildings remain in Boston's renewing neighborhoods even though today's city can be characterized by a shortage of housing available to low income people. While Boston's poor residents desperately seek affordable housing, housing units remain unoccupied in both declining and renewing neighborhoods.

To explore this paradox, I first examined Boston's policy on vacant buildings. Boston's vacant building policy does not tackle vacant buildings in renewing areas, only those located in declining neighborhoods that have been abandoned by their owners. Boston's policy goal is to increase the amount of collectable real estate taxes by selling tax-foreclosed vacant buildings, or abandoned buildings, to tax-paying residents. However, this policy goal conflicts with another of the City's goals-- increasing affordable housing opportunities for the city's low income residents.

Drawing on the literature of neighborhood decline and gentrification, I propose that the policy is grounded in a misconception of how Boston's inner city neighborhoods are developing in the 1980s. While the policy targets the property abandonment crisis of the 1970s, it neglects to focus on, and therefore contributes to, the gentrification process of the 1980s that transforms low income housing into upper income housing.

In the early stages of gentrification, speculators purchase and hold vacant these previously abandoned buildings, paying municipal real estate taxes and eventually reselling them at

inflated prices. When this occurs, the buildings cannot be foreclosed by the City or inexpensively purchased and rehabilitated into low-cost housing for the City's poor residents. While Boston's vacant building policy may expand the municipal tax base--an important goal for a city, like Boston, that has a high proportion of tax-exempt land owners, the policy may prove to reduce the city's supply of housing opportunities for low income residents.

I begin by addressing the issues above in a review of Boston's vacant building policy in Section II. I outline in Section III the weaknesses of how the City implemented the policy. The policy was translated into a set of administrative and legal mechanisms to implement the policy that cannot ultimately achieve the policy goal. In this section, I also argue that the policy approach of returning abandoned buildings to private for-profit owners may prove to be counter productive to the City's goal of increasing the supply of low income housing.

My evaluation of the City's vacant building policy provides the basis for a new policy approach to returning vacant buildings to residential use in Boston. This new policy approach, presented in Section IV, can enable the City to both expand the city's supply of affordable housing and return tax delinquent buildings to tax-paying owners.

II. THE CITY OF BOSTON'S POLICY ON THE REUSE OF VACANT BUILDINGS

The Flynn administration has made the reclamation of abandoned buildings a top priority...at a time when the need for decent and affordable housing for people of low and moderate income has reached a state of crisis, thousands of housing units are left abandoned and in disrepair. Boston cannot afford to waste these valuable resources.

-Report of the Property Disposition Committee,
January, 1985

The Flynn administration recognizes vacant buildings as a resource for increasing the supply of housing in the City of Boston. In September of 1984, Mayor Flynn created the Property Disposition Committee to develop a policy on how to return the city's vacant buildings to residential use. Since that time, Boston's vacant building policy has continued to evolve. I will present the policy in three components: the formal policy as stated in a January 1985 report by the Property Disposition Committee (PDC), the developing Abandoned Building Pilot Program, and the information network within which the the PDC's policy functions.

A. The Property Disposition Committee's Vacant Building Policy

What shall we do with physical assets that retain social value long after they have ceased to serve economic purposes judged by market criteria?

-James Franklin, 1972

The PDC was originally composed of the City's department heads of the Real Property Department (RPD), the Redevelopment Authority (BRA), Public Facilities Department (PFD), as well as the Mayor's Housing Specialist and the head of the now defunct

Neighborhood Development and Employment Agency (NDEA). This team was created to develop the City's policy on vacant buildings and continues to direct how the vacant building policy takes shape during the Flynn administration.

The Issue: Abandoned Buildings

In creating the vacant building policy, the Property Disposition Committee targeted vacant buildings which had been abandoned by their owners (PDC, 1985:1; CH, 1/12/86).

Abandonment of property is the process by which an owner gradually reduces investment in maintaining and operating a building. The owner discontinues all building maintenance and repairs, real estate tax payments, and heat and utility payments in response to personal financial constraints and/or perceptions that the property has no market value. (Lake, 1979:158-60). The law defines abandonment as when an owner has voluntarily given up all rights to her property.⁽¹⁾ Therefore, property abandonment occurs most often in neighborhoods having no foreseeable real estate market.

Consequently, the policy goal as stated by the PDC is to break the cycle of property abandonment in neighborhoods having relatively large numbers of vacant buildings by first acquiring abandoned properties and then selling them to responsible

1. According to 1 American Jurisprudence 2d, 2nd ed., an abandoned property is "that to which the owner has voluntarily relinquished all right, title, claim, and possession, with the intention of terminating his ownership, but without vesting in another person and with the intention of not reclaiming future possession or resuming its ownership, possession, or enjoyment". Cities measure this act of abandoning property in various ways, including the failure to pay real estate taxes, to rent units in a rental building, or to maintain the building.

citizens (PDC, 1985:1).

Whatever the cause, abandonment always involves tax-delinquency, which makes the property available for an inexpensive government acquisition.

-Hartman, 1981

The policy stipulates that a property owner has abandoned her property when she does not pay real estate taxes (PDC, 1985:1). Tax delinquency for more than one year is the operational definition used to measure abandonment; when an owner stops paying real estate taxes for more than one year, the owner is presumed to be disinvesting in the property. Boston acquires abandoned buildings by foreclosing on tax delinquent properties. (2) Real estate tax delinquency creates an opportunity for Boston to legally take properties that fail to produce tax revenues and contribute to neighborhood blight. When Boston forecloses on a tax delinquent property, it can then return the property to a responsible or tax-paying owner who will return the building to use as housing.

Appendix A outlines the tax title foreclosure process in Boston and defines the role of the City agencies in the process of tax collection and foreclosure.

2. Boston may foreclose on tax delinquent real property as determined in Section 58 of Chapter 60 of Massachusetts's General Laws. A building is legally tax delinquent thirty days after taxes for the fiscal year are due and unpaid (PDC, 1985:27). The Massachusetts's General Laws define an abandoned building as both vacant and tax delinquent; according to Section 81A of Chapter 60 of the General Laws, an abandoned property is a property which a "city or town has...taken for non-payment of taxes...and has reason to believe is unoccupied...(as verified by an inspector of buildings)".

Boston has approximately 400 tax delinquent and vacant buildings, according to an NDEA survey completed in May of 1985 (PFD, 1986). Forty-six percent of these abandoned buildings are in the tax-title stage of the tax-title foreclosure process, while the remainder have had petitions to foreclose filed in the Land Court (PDC, 1985:29). The NDEA survey also identified 68 City-owned vacant properties. Therefore, Boston has approximately 468 abandoned buildings.

Large scale property abandonment occurs in Boston's poor neighborhoods with low real estate values (Gaston & Kennedy, 1985:14; PDC, 1985:3). Seventy-one percent of Boston's 600 vacant residential buildings are located in Roxbury and Dorchester, two of the poorest areas in the City (PDC, 1985:26). In such neighborhoods, residential property cannot be operated profitably. A low income population does not have the financial resources to pay rents that would cover the costs of operating and maintaining a building. Since the rent generating ability of a rental property determines its market value, residential buildings in low income areas have low market values relative to property in middle and upper income neighborhoods.

The Policy Approach:

It is the goal of this Administration to encourage the purchase and rehabilitation of (abandoned) properties by responsible, tax paying persons

-George A. Russell Jr.
Collector-Treasurer, Boston

According to the PDC's policy statement, the City's approach to breaking the cycle of property abandonment is to maximize the

City's tax base. To achieve this, the City will sell vacant City-owned surplus properties and other vacant buildings acquired through tax-title foreclosure to private parties who will return the buildings to residential use and pay real estate taxes to the City (PDC, 1985).

This approach incorporates two principals: maximize tax revenues from property and minimize property ownership costs to the City. First, Boston seeks to maximize revenues from property subject to real estate taxes. Abandoned property, or tax delinquent property, does not contribute to the City coffers. Returning tax delinquent properties to responsible private owners is one way the City can increase the amount of collectable tax revenues.

Because vacant buildings do not yield taxes, yet require City services such as fire, boarding, and maintenance, they significantly drain the City's financial resources.

-Property Disposition Committee
1985: 1

City-owned abandoned property not only fails to generate tax revenues, but requires City expenditures for property maintenance and management. Vacant abandoned buildings are often unprotected and potentially hazardous buildings. In order to protect the general public's health and safety, the City must pay for maintenance, boarding up, extermination, and all other services as specified by the State Sanitary and Building Codes (Young, 1986). However, Boston does not have the financial resources to maintain and insure hazardous buildings. Consequently, the City does not want to hold or bank vacant property any longer than is

absolutely necessary (Knasas, 1984).

The City's Real Property Department assumes ownership of all foreclosed property. This (places) the Department under heavy financial strains and in a property management role that was not its intended function.

-Property Disposition Committee
1985: 6

Policy Implementation:

The PDC developed three specific criteria for returning City-owned abandoned buildings to private tax-paying owners: promoting home ownership, producing affordable housing units, and increasing community participation in the planning process (PDC, 1985:1).(3)

The PDC identified several obstacles impeding the return of vacant tax delinquent buildings to tax-paying owners: ignorance on the part of the City about the location and the characteristics of abandoned property, tax foreclosure and tax abatement processes that prevented rapid acquisition of abandoned property, and the auction system of surplus property disposal that was insensitive to the three criteria for returning tax-foreclosed buildings to new owners. PDC's implementation strategy included administrative, procedural, and legislative changes that attempted to overcome these barriers to achieving the policy goals for reusing vacant buildings.

3. Prior to the PDC's efforts to clarify the City's vacant building policy the City had not established criteria governing the disposition of City owned abandoned buildings. The City's only disposition guideline was to sell surplus property to the highest bidder (Knasas, 1984:16).

Administrative Change: The Clearing House

The City's lack of knowledge about abandoned buildings was seen by the PDC as one reason it could not stop property abandonment from occurring in Boston (PDC, 1985:10). The City Council established the Clearing House in 1985 to collect data on the characteristics of abandoned property in Boston. Staffed by the PFD and the RPD, the Clearing House also functions as a public information center on how to buy abandoned buildings (CH, 1/24/86).

Currently the Clearing House is:

1. Developing a computerized data base on abandoned property tracking physical condition, tax delinquency status, ownership, location, and proposed plans for reuse of every building (PDC, 1985:11).
2. Providing these data to persons interested in purchasing and rehabilitating abandoned property (MacNeil 1/28/86).
3. Acting as a public information center on how to buy abandoned property and where to go to apply for financial assistance in rehabilitating an abandoned building (CH, 6/14/85).
4. Ranking tax delinquent vacant buildings according to development need and potential as determined by the RPD, the PFD, and the Mayor's Office (PDC, 1985:12).
5. Developing a vacant building data base to expand and update the NDEA survey of vacant buildings completed in May of 1985. (Ownership and tax status data in this report are currently out of date (Welch, 1986).

Property Acquisition:

If the City forecloses on tax delinquent vacant buildings, it can then sell these buildings to private owners who are likely to pay real estate taxes to the City. A quick foreclosure process can mean that the City can acquire the building before it

is sold to someone else who may not pay the City taxes and return it to residential use. The PDC spearheaded legislative and procedural changes in the tax-title foreclosure system enabling the City to take property and return abandoned property to private owners more quickly.

In the past, whether or not a vacant building was foreclosed by the City for back taxes depended on whether its petition to foreclose was forwarded from the Tax-Title Office to the Land Court, the final point of a back-logged and lengthy foreclosure system (Knasas, 1984; APC, 1985). Often the City was reluctant to initiate action on a tax delinquent vacant property because of the high liability assumed with its ownership (Cunio, 1983).

Tax delinquent vacant buildings now have priority over occupied buildings in the tax-title foreclosure system. The PDC codified the priority of vacant buildings in tax-title foreclosure guidelines developed to direct the Tax-Title Office in processing tax cases (MacNeil, 1986). Expediting the foreclosure process for vacant buildings speeds the time in which the City can actually acquire an unused building and introduce it back into active use as housing (PDC, 1985:12).

Tax-Foreclosure:

Not only was the administration of the foreclosure process insensitive to Boston's new policy on vacant buildings, but the laws governing the foreclosure process did not enable the City to swiftly acquire vacant buildings.

The PDC successfully lobbied the state for legislation allowing the City to quickly obtain a clear title to foreclosed

vacant property. House Bill 6374, signed into law on January 7, 1985 reduced the time in which a tax delinquent owner of a vacant building may appeal final foreclosure by a city from one year to ninety days. The new law enables Boston to swiftly acquire clear titles to abandoned properties and still respect due process requirements for the taking of real property (Amendment to Section 69A, Ch. 60 of the General Laws).

Tax Abatements:

The new legislation championed by the PDC also enables the City to offer incentives to private investors who purchase and renovate vacant tax delinquent buildings according to policy goals (PDC, 1985:13). The City may now abate full or partial taxes owed by previous owners of 1-6 unit vacant and abandoned tax delinquent buildings sold to a new owner before the property entered the foreclosure process. The new owner may now request an abatement of back taxes rather than paying the City the full value of the tax-title in order to clear the title and legally purchase the building. By abating back taxes, the City removes the tax-title lien on a property's title, providing a clear title necessary for the new owner to acquire private loans (Knasas, 1984:42; Amendment to Section 8, Ch. 58 of the General Laws).

By abating back taxes on tax delinquent vacant property, the City can reduce the cost of acquiring such buildings, potentially enabling a new owner to develop a tax delinquent building into affordable housing units. According to the Assessing Office, tax abatements will be given to those persons who demonstrate a financial need for the abatement, first-time home buyers who will

live in and maintain the property for at least three years, existing tenants, and Boston residents (Assessing Office, 1985; MacNeil, 1986; PDC, 1985:33).

Property Disposition:

The final component of the vacant building policy replaced the "highest bidder" auction process for selling City-owned tax-foreclosed properties with a negotiated sales process managed by the Public Facilities Department (PFD). Boston's old auction process was not sensitive to the PDC's criteria for reselling tax-foreclosed buildings. Because the auction process did not specify reuse conditions low bidders, such as community groups and low income residents, would rarely outbid real estate developers. Rather than reform the auction process, the City chose a negotiated sales process for disposing tax-foreclosed properties. This system allows the City not only to specify rehabilitation criteria in the sale agreements, but also to weigh a potential buyer's reuse goal as well as purchase price in selecting the new owner.

The Real Property Department's (RPD) role as manager of foreclosed property was reduced with the new disposition process. Now the RPD transfers surplus property to the PFD within one month of City foreclosure, eliminating the high property management and liability costs RPD was unable to assume (Knasas, 1984:16; MacNeil, 1986). The RPD is now only an interim property manager while PFD takes the lead in the disposition of foreclosed property.

In the Residential Development Program, as the negotiated

sales process is called, the PFD works with the RPD and the Mayor's Office to evaluate the best use of foreclosed properties, considering both the highest economic use of each property and the development needs of the community. (PFD, 1985). When the City selects buildings to sell through the negotiated sales process, the PFD advertises these buildings in the Boston Globe and local newspapers to solicit proposals for development (MacNeil, 1986).

In the case of large properties, community meetings are held to identify the neighborhood's property development criteria. PFD incorporates community needs into requests for rehabilitation proposals sent to individuals and developers (MacNeil, 1986). For smaller properties, the PFD distributes to abutters notices of the sale process in order to solicit community input to the process.

A committee composed of the RDP, the PFD, and the Mayor's Office selects the new owner of a foreclosed property based on a buyer's development proposal reflecting neighborhood compatibility, affordable housing, financial feasibility, and technical capacity to complete renovation (PFD, 1985; PDC, 1985:14).

The PFD also co-ordinates financial packages for anyone needing assistance in implementing their proposals. PFD collaborates with the Massachusetts Housing Partnership (MHP), the Massachusetts Housing Finance Agency, the Massachusetts Government Land Bank, and the state Executive Office of Community Development to develop financial plans for rehabilitation abandoned buildings (PDC, 1985). For example, one of MHP's four

goals is to support local efforts to reclaim abandoned and vacant property (MHP, 1986). Recently, Mayor Flynn and the PFD's Director requested six million dollars in start-up funds from the MHP to help finance housing on fourteen vacant city-owned parcels (Globe, 3/29/86b).

B. Abandoned Building Pilot Program

Boston's vacant building policy is currently expanding to include City departments involved with maintenance of vacant and abandoned buildings. Vacant buildings must be protected from weather, vandals, and arsonists if they are to be rehabilitated as low income housing (Young, 1986). The Inspectional Services Department (ISD), the Health Department, and the Mayor's Office have recently developed a Pilot Program to improve the condition of a neighborhood's physical environment by engaging residents in an effort to maintain and improve their homes and their community (Young, 1986). Limited resources prevent the program from being implemented in the entire city; the Pilot Program will initially focus on Dorchester and move to the Franklin Park section of Roxbury if the Mayor appropriates additional funds to the program.

The Pilot Program will co-ordinate efforts from three City departments: the Police Department will remove abandoned cars, the Building Department will record and cite illegal construction, the Health Department will forge an attack on the area's rodents, and the ISD will identify and clean vacant lots and identify, record, and, as needed, cite, repair, or board up buildings.

The Pilot Program: ISD's Role

ISD's vacant building maintenance and boarding up activities have been designed to complement the PDC's vacant building policy. The Abandoned Building Unit (ABU) of ISD is the headquarters of the vacant building element of the Pilot Program. ABU's primary goal will be to locate all vacant buildings and

remedy all code violations in these buildings in an effort to protect vacant buildings (McDermott, 1986).

ABU has just hired ten building inspectors who will complete weekly walking surveys of Dorchester, recording and updating the conditions of all the vacant buildings in the area. Young believes increasing the number of building inspectors is the first step in improving City information of the location and characteristics of abandoned buildings since poor maintenance is one of the first indicators of abandonment.

The building inspectors will survey all building conditions, entering buildings that appear to be vacant to determine whether or not occupants live in the building. If the building is occupied, the inspectors will ascertain whether the occupants are legal tenants or squatters.(4)

Information collected by the building inspectors will be compiled into monthly reports identifying for every building: whether it is vacant or occupied, construction materials, any code violations, and type of work needed to remedy the violations. The building reports will be supplied to the Clearing House, which has hired a title searcher to identify the tax status of each identified vacant building. The Clearing House has requested this information from ISD so that it may develop a vacant building data base (MacNeil, 1986).

As part of the process of remedying code violations, ABU must locate the owners of buildings that violate the State

4. The City has no definite policy on what steps to take to rehouse tenants who live illegally in an abandoned building.

Building and Sanitation Codes. ISD issues citations notifying owners of the conditions to be corrected and bills owners for the costs incurred by the City in repairing and boarding up vacant buildings. ABU has also hired a title searcher to identify the owner of record as stated at the Registry of Deeds.⁽⁵⁾ As part of the program, a Constable will hand deliver all violations to the owner of record.

The Pilot Program will supplement the City's goal of returning vacant abandoned buildings to occupied housing by securing Dorchester's vacant buildings against damage, which could otherwise increase the rehabilitation costs to a new owner.

5. ISD has one title searcher to locate who owns all buildings and lots requiring notification of a code violation and billing for City-incurred costs of remedying the violation. The title searcher hired by ABU will focus only on locating the owners of vacant buildings and lots, while the Clearing House's title searcher will identify the tax status of these vacant properties.

C. Flow of Information On Vacant Buildings Through The City

Not all of the City's departments that are involved in the flow of information about vacant buildings were formally integrated into the strategy developed by the PDC to implement the vacant building policy. How information flows into the City and within the City bureaucracy reveals how effective the City is in learning about vacant buildings. (6)

Both City agencies and neighborhood residents observe vacant buildings in the community. These eyes of the City transmit information and complaints about vacant buildings to City Hall. Building inspectors, police officers, firemen, and the staff of the Arson Prevention Commission (APC) are the City's formal eyes. Informal data on vacant buildings reaches the City from abutters to vacant property, community groups, community development corporations (CDC's), and real estate investors.

According to interviews with the Arson Prevention Commission, the Inspectional Services Department, the Clearing House, and the Mayor's Office, intra-city agency communications are not well defined. However, from these discussions I have been able to chart how information seems to flow from community and City eyes to City Hall and within City Hall. Chart 1 illustrates how complaints about building conditions flow

6. I have included the Clearing House in this discussion to show how this new City department fits into the information network. Although the Pilot Program now formally co-ordinates the Police Department and the Health Department, I have not included this program as a distinct element in the information flow diagrams because the Pilot Program has increased the number of inspectors sending information to ISD, while leaving unaltered how the information flows.

into the bureaucracy, while Chart 2 traces the path of a request for a vacant building's development through various City agencies.

Complaints About Building Conditions:

The Arson Prevention Commission (APC) is a valuable source of information on vacant buildings, which are highly prone to fires and other forms of vandalism (West, 1986). Each APC staff member monitors ownership changes, vacancy, mortgage lending activities, turnover rates, and City planning activities in a particular section of the city to learn how arson is associated with property characteristics. According to the Director, the APC usually informs not only the Mayor's Office, but the RPD and the Clearing House when they identify a new vacant building. APC and the Fire Department communicate frequently about vacant buildings as well.

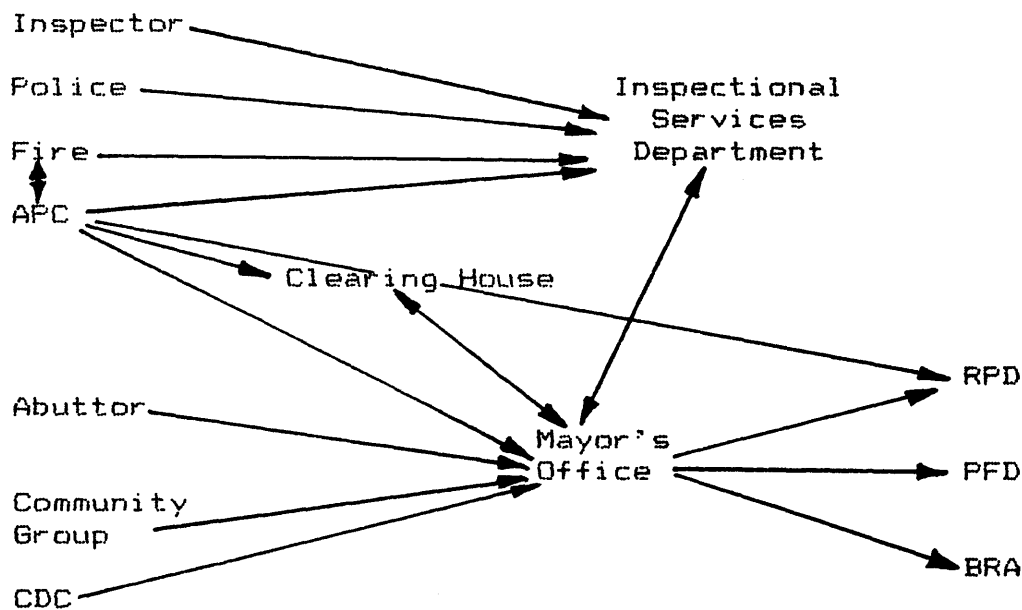
According to the secretaries who screen all calls into the Mayor's Office, when a citizen calls to complain about a vacant building's condition, the Mayor's Office calls the Collector-Treasurer or the Registry of Deeds to see who owns the building. If the City owns the building, the Mayor's Office calls the department holding jurisdiction over the building--the BRA, PFD, or RPD--and directs them to remedy the nuisance condition (Young, 1986). If the building is privately owned, yet posing health and safety hazards, the Mayor's Office calls the Inspectional Services Department (ISD), which corrects the nuisance conditions by boarding up the building. If the building is also tax delinquent the Mayor's Office calls the Clearing

House, which can begin planning for the acquisition and sale of the property.

According to Bill Young of the ABU, the Police and Fire Departments, as well as the Mayor's Office, notify the ABU when unsafe and open vacant buildings require services.

Community and activist groups contact the Mayor's Office to complain about the conditions of vacant buildings.

Chart 1: COMPLAINTS ABOUT THE PHYSICAL CONDITIONS OF VACANT BUILDINGS



As Chart 1 illustrates, the Clearing House is not actually functioning as a clearing house for information on the conditions of vacant buildings. Instead, the ISD receives much information about vacant buildings directly from the City's eyes, while information from community eyes is directed to ISD from the Mayor's Office. Information and complaints about the conditions

of vacant buildings are directed to ISD, whose mandate is to remedy nuisance conditions in buildings. The Clearing House, although it was established to collect information about vacant buildings, does not emerge as an information center. Even the information the Clearing House will be receiving from the ABU in their surveys conducted as part of the new Pilot Program will not be direct information from City or community eyes.

Requests for Development of Vacant Buildings:

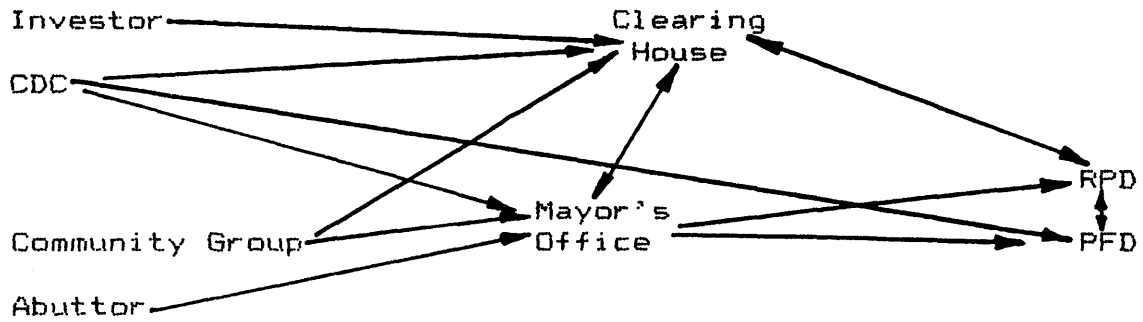
Individuals or organizations seeking to develop a vacant building generally call the Mayor's Office. If the building is City-owned, the Mayor's office will contact the RPD or the PFD. If the building is privately owned, then the Mayor's Office will direct the interested party to the Clearing House.

According to Liz MacNeil, Director of the Clearing House, when a citizen or community organization comes into the Clearing House requesting information about vacant properties, her staff provides them with tax status and ownership information. If the building is City-owned and available for a negotiated sale, the Clearing House staff will inform the party as to how to purchase it in co-ordination with the RPD and the PFD. If the vacant building is privately held, the Clearing House can only further assist the interested party if the building is tax delinquent by requesting prompt tax-title processing from the Tax-Title Office.

When a community development corporation has a homesteading or other housing development program, it might not contact the Clearing House or the Mayor's Office, using instead communication channels developed through years of experience in developing

housing with assistance from the City. For example, Roxbury Multi-Service Center usually calls the PFD directly to inquire about purchasing a vacant building to incorporate it into their homesteading activities (Waters, 1986).

Chart 2: REQUESTS TO DEVELOP VACANT BUILDINGS



As both Chart 1 and 2 illustrate, the ISD and the Mayor's Office, rather than the Clearing House, function as parts of a decentralized "clearing house" for information on the conditions of vacant buildings and how to purchase and develop vacant buildings.

D. Summary

By defining vacant buildings as abandoned buildings, or tax delinquent buildings, the Property Disposition Committee shaped a vacant building policy to reduce the rate at which owners abandon property and to achieve the related goal of maximizing the City's tax base. The primary way the City will meet these goals is to resell tax-foreclosed buildings to new private owners who will pay municipal real estate taxes. The ABU's Pilot Program complements the City's attempt to return abandoned buildings to residential use by protecting them from irreparable damage. A key component of implementing the new policy, the Clearing House was created to co-ordinate the City's efforts to learn about vacant buildings buildings and co-ordinate the City's disposition process. However, the Clearing House was not intergrated into the existing network circulating information about vacant buildings to and around City Hall and, therefore, cannot operate as a true clearing house.

III. EVALUATING BOSTON'S VACANT BUILDING POLICY

In this section I evaluate Boston's vacant building policy in two ways. First, I show that the policy is a limited attempt at returning vacant tax delinquent buildings to private owners. In this discussion I do not challenge the policy goal, but illuminate the weaknesses of the policy implementation. Second, I criticize Boston's policy goal of returning abandoned buildings to private owners. Both elements of my critique provide a basis on which to recommend an alternative policy approach to reusing vacant buildings as low income housing.

A. Drawbacks to the Policy's Implementation

Boston's vacant building policy established mechanisms to reduce the number of abandoned buildings in the city and return these buildings to tax-paying private owners in an effort to increase the City's revenues from real estate taxes. The specific mechanisms, while logical outcomes of the chosen policy approach, were not institutionalized in such a way as to ensure their actual support of the policy goal. Each mechanism could be redirected to a goal of helping subsidize for profit development of market-rate units out of tax foreclosed buildings by an administration unsympathetic to Mayor Flynn's policy goals. For the sake of discussion I break the policy's implementation devices into four categories: property acquisition, information collection, tax abatements, and negotiated sales process.

Property Acquisition

The City must be able to swiftly foreclose on all tax delinquent vacant buildings to then quickly sell them to private tax-paying owners.(7) However, since the policy did not alter the laws governing the tax-title foreclosure system or the way in which Massachusetts and Boston administer the foreclosure system, the City remains unable to quickly acquire vacant tax delinquent buildings.

As a method of taking private property, the foreclosure system must be sensitive to due process requirements of notice and right to appeal. Four stages, as described in Appendix A, compose the tax-title foreclosure process: tax-title taking, petition to foreclose, final decree awarded to the City, and previous owner's redemption period. At each stage, the owner has the opportunity to clear the tax-title lien from the ownership title.

Boston's policy only altered the final component of the foreclosure process; while House Bill 6374 shortened the redemption period for owners of vacant and abandoned property from one year to 90 days, it did not shorten any legal time elements of the process preceding the redemption period. Currently, the foreclosure process can take as long as 2 1/2 to 13 years before a property actually reaches the redemption period (APC, 1985; Globe, 2/13/85).

However, specific components of the process may be legally changed to shorten the lengthy process of actually acquiring

7. Swiftly means foreclosing on tax delinquent property as soon as possible and respect the rights of private property owners.

clear title to tax delinquent property while protecting the rights of private property owners. The City could have lobbied the legislature to reduce from six months to two months the required period between when a tax-title taking is recorded for abandoned property and a petition to foreclose is filed by the Tax-Title Office in the Land Court. New legislation could be adopted to require title searches that review titles for the past ten instead of twenty years to identify all parties interested in abandoned properties (Section 65, Chapter 60 of the General Laws). The legislature has shown its willingness to shorten the legal process requirements of the foreclosure system by shortening the redemption period for abandoned buildings. Legally changing additional steps in the foreclosure process would reduce the length of time Boston must wait to actually foreclose on abandoned properties.

Yet, legislative changes alone will not speed the rate at which the City can obtain clear title to tax delinquent vacant buildings. According to Liz MacNeil, delays in the foreclosure system result from inefficient administration of the process due to a lack of adequate staffing in the Land Court. The Land Court, much criticized for its lack of staff and antiquated system of processing cases, remains unaltered by Flynn's policy (Globe 2/17/86; Cunio, 1983:16, Knasas, 1984).

The City should lobby the legislature to increase the number of judges sitting in the Land Court from one to three, and appropriate additional funds for modernizing the system and increasing the number of staff title examiners (Young, 1986;

Globe 2/17/86).

The City's component of the tax-title system, the Tax-Title Office, remains understaffed as well. Only one lawyer processes cases in the Tax-Title Office (APC, 1985). Consequently, the Tax-Title Office attorney exercises discretion in selecting those tax-foreclosure cases, of all such cases ripe for processing, that will be forwarded to the Land Court. Although the City has designated vacant tax delinquent buildings as high priority items for foreclosure petition processing, the City does not currently know what buildings are still vacant and tax delinquent. The burden of prioritizing vacant buildings for foreclosure processing falls on the City, and the City has not updated the NDEA survey's data on vacant tax delinquent buildings. Until, and unless, the City actually collects the information necessary to direct the Tax-Title Office in processing foreclosure cases, the Tax-Title Office will retain the discretion it has historically exercised in processing tax delinquent buildings (APC, 1985). In addition, the City should increase the Tax-Title Office's staff to complement the method of acquiring abandoned buildings through tax-title foreclosure.

Information Collection

Although the Clearing House was created to collect and store information on the characteristics of abandoned buildings, it does not utilize the complaints on vacant buildings entering the City from community or City eyes. This information is channeled to ISD rather than to the Clearing House or the PFD. The policy did not establish direct lines of communication from the

neighborhood to the City or from ISD to the Clearing House. Instead of exploiting existing sources of information on vacant buildings, such as the Fire Department, the APC, and the Police Department, the Clearing House is currently proceeding to update the data on vacant buildings by using RPD and PFD staff to complete surveys (although now the ISD will give the Clearing House the data on Dorchester's vacant buildings).

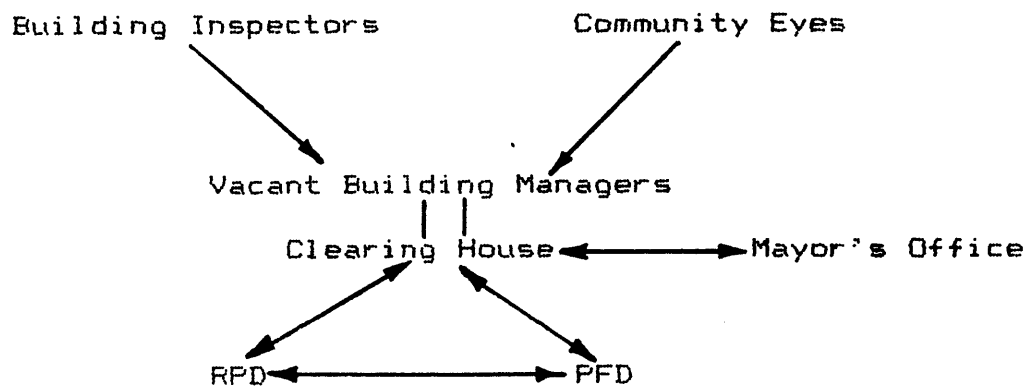
In relying on information at the Registry of Deeds or the Assessors Office for data on what liens currently encumber vacant properties' titles, the Clearing House's information base is dated. The Registry of Deeds, which records all liens on property titles, is approximately one year behind, while the Collector-Treasurer's Office remains almost two years behind in sending notice of a tax-title taking to the Registry of Deeds (Welch, 1986).

If the Clearing House is to operate as an accurate database on the characteristics of vacant buildings, the City should lobby the State to increase funding for increased computerization and staffing of the Registry of Deeds. The City must also rethink how it is currently administering the Collector-Treasurer's Office.

The City must also reevaluate the way information on vacant buildings flows into City Hall. The Clearing House was not integrated into the existing City bureaucracy in such a way as to benefit from the information that the ISD and the Mayor's Office collects on vacant buildings as a part of their operations. To improve the way information flows to the Clearing House, the City should consider making the Clearing House the central receiving

agency for all information on vacant buildings by increasing public, community groups', and City departments' awareness on the Clearing House's need for data on vacant buildings. The ABU's co-operation with the Clearing House in the Pilot Program is a first step in the direction of increasing intra-City department co-ordination about vacant buildings. Second, the Clearing House should hire a sufficient number of full-time community-liasons, or "Vacant Building Managers", who will act as information clearing houses and co-ordinators of City and community efforts to sell foreclosed buildings and return them to residential use. Vacant building managers could reform how information flows from the community to the City and within City Hall. To compliment the efforts of the vacant building managers, the ISD should hire additional building inspectors who can feed the vacant building managers with information on vacant buildings. Chart 3 illustrates how communication about vacant buildings could flow more directly into the City and between City departments.

Chart 3: DIRECT FLOW OF INFORMATION ABOUT BOSTON'S VACANT BUILDINGS



Tax Abatements

The new tax abatement law was developed to support the policy goal of returning tax delinquent vacant buildings to private owners. However, this law can potentially be used by a pro-development administration to subsidize speculative investment in tax delinquent buildings.

While the tax abatement program was designed to provide a way to reduce the costs of rehabilitation for low income people, the City can give private for-profit developers tax abatements as well and essentially subsidize investment in risky real estate. The burden for selecting who qualifies for tax abatements under the new law falls on the City. While limiting the number of units for which a for-profit developer may request abatements to fifteen, the law could have also included mechanisms ensuring that the abatements support the vacant building policy's disposition criteria of selling foreclosed properties to persons who will turn the property into affordable housing. For example, the law could be amended to prevent the City from removing a tax-title lien on abandoned property through abatement of back-taxes unless the developer is actually a non-profit developer or a resident whose median income falls below the city's average income.

Negotiated Sale Method of Property Disposition

The negotiated sale method of property disposition is a method of selling foreclosed property to private persons that allows the City to select a low-bidder as a new owner if her proposal meets community needs. However, it appears that the

disposition process is not quickly selling properties to private citizens. Out of the 139 properties advertized for sale in 1985, only 16 were sold by the end of the year (CH, 1985).

In addition, community participation in the negotiated sales process is still limited. Although the Residential Development Program guidelines state that the negotiated sales process will enable community participation in the process, the level of community participation depends directly on whether or not the City formally solicits input on development proposals from the community. In the case of large properties, the City now formally initiates community involvement in the disposition process by holding community meetings. However, not all of the City's foreclosed properties are large. For smaller properties, the Clearing House distributes fliers to abutters, requesting them to contact the PFD if they have development needs they would like the City to consider in selecting the proposal. But, the selection committee does not include a community representative who can ensure a community's input is actually considered in the selection process. With a pro-development mandate, the selection committee could ignore all community input to the process.

The community also participates in the negotiated sales process by having community based organizations, such as CDC's, submit proposals for development. In theory, a CDC, since it can voice the development needs of the community that it serves, should have a competitive advantage in the negotiated sales process. However, because many community groups and CDC's do not have funds to hire the expertise required to submit development proposals and carry out an actual rehabilitation project, many

community groups are unable to participate in the negotiated sales process by buying foreclosed properties from the City.

The City could reform the negotiated sales process to include on the selection committee representatives from neighborhoods who could ensure that the interests of the neighborhoods are represented during the selection process. In addition, the City should help fund the development activities of Boston's CDCs so that these groups can fully participate in the negotiated sales process.

The tools created to implement the City's vacant building policy are limited because the responsibility for implementing all aspects of the policy falls on the City. A Mayor unsympathetic to the Flynn administration's approach to vacant buildings could eliminate both the Clearing House and the specific programs developed to implement the policy. Also, should the mandates for the Clearing House, the RPD, and the PFD change, the programs created to facilitate the reuse of vacant tax delinquent buildings as low income housing could be used to subsidize speculative investment in these buildings.

Review:

Boston could achieve its policy goal of returning buildings to tax-paying residents if the City reformed how the policy was implemented. In summary, my recommendations are:

1. Reduce the time it takes the City to foreclose on tax-delinquent vacant buildings:

Legal:

a. Shorten from six months to two months the period between the tax-title taking and the filing of a petition to

foreclose by the Tax-Title Office in the Land Court.

b. Reduce from 20 to 10 years the number of years back in time required for a historical title search by the Land Court title examiners to tax-foreclose on vacant buildings.

Administration:

a. Lobby the legislature to increase funding for the Land Court to expand the number of Judges and staff title examiners.

b. Increase the Staff at the Tax-Title Office.

c. Complete an annual vacant building survey to direct the Tax-Title Office's processing of tax-foreclosure cases.

2. Improve the way in which information on vacant buildings flows from the neighborhood to the City and within City Hall.

a. Hire a staff of vacant building managers to increase the ability of the Clearing House to learn about vacant buildings. The vacant building managers will compose a true clearing house, acting as liasons between City and community eyes and City Departments.

b. Lobby the State to increase funding for modernizing the Registry of Deeds.

c. Increase the staff and funding of the Collector-Treasurer's Office.

3. Amend the law allowing the City to abate back taxes to new private owners of vacant and tax delinquent buildings to allow only this type of abatement to non-profit developers and residents whose income falls below the city's average income level.

4. Reform the negotiated sales process to increase the level of community participation.

a. Include community representatives on the selection committee.

b. Fund CDCs to enable these community-based developers to participate in the negotiated sales process by submitting competitive proposals.

Many of these recommendations have been suggested by others as methods of either increasing the ability of the City to foreclose on tax delinquent buildings or injecting community

participation into the planning process for tax-foreclosed buildings. Clearly, the City was not willing to incorporate these kinds of mechanisms into the vacant building policy I have described. For whatever reason the City was unwilling to use such tools, the City's decision makers may be more willing to reconsider how the policy was implemented if they believe that such an action would increase the popularity of the Flynn administration. Therefore, the citizens of Boston who agree with the PDC's policy goal must actively demonstrate to the City that improvements to the policy implementation, such as those that I have suggested, will help the City achieve its goal of increasing real estate tax revenue.

B. Criticism of The Policy Goal

But all of these improvements to how the vacant building policy is implemented may ultimately prove counter productive to another important goal of the Flynn administration--increasing the amount of affordable housing opportunities for the city's low income residents. By supporting a return of tax-foreclosed and tax delinquent buildings to tax-paying private owners, the City is ultimately supporting the gentrification of abandoned neighborhoods, a process which results in a loss of these communities' low income housing.

The way Boston thinks about vacant buildings has led to a policy of returning vacant foreclosed property to private for-profit owners. By seeing only abandoned buildings as vacant buildings, the policy considers vacant buildings only as discarded property that does not generate tax revenues. Vacant tax delinquent buildings represent disinvestment in property and a loss of tax revenues, but if the City does not foreclose on these buildings, they can be avenues through which neighborhoods are transformed from low income communities to upper income enclaves.

Because the City did not increase the legal or administrative capacity to foreclose on tax-delinquent vacant buildings and Boston's real estate market is booming, the City cannot actually foreclose on tax delinquent vacant buildings before speculators purchase them (MacNeil, 1986; Martin, 1986; Young, 1986; Berman, 1986). Once speculators purchase vacant tax delinquent buildings, clear their titles by either paying off the

back-tax bills or requesting an abatement under the new tax abatement legislation, and hold them while paying the current real estate taxes, the buildings cannot be foreclosed by the City. In addition, these buildings become increasingly more valuable as speculative sales increase their market values. They are then lost as a source of affordable housing.

Abandonment Crisis In a Renewing City?:

To Boston's policy makers, the meaning of vacant buildings comes from the neighborhoods in which they most often exist-- declining neighborhoods. Boston's vacant building policy clearly reflects the way in which urbanists studying central cities in the 1970s defined vacant buildings. For these urban theorists, vacant buildings were defined by tax delinquency and owner abandonment.

Urbanists studying the phenomena of inner city property abandonment in the 1960s and 1970s found that in declining areas vacant buildings were abandoned by their owners because little foreseeable market for central city real estate existed (Sternlieb, 1970).

The number of abandoned structures has never realistically been (tabulated)...there is a list of structures reported vacant....based on vacancy... upward of 100,000 apartment units (are) now vacant and abandoned.

-George Sternlieb, 1970
Testimony to the U.S. Senate Sub-
Committee on Housing and Urban Affairs

Tax delinquency was virtually synonymous with abandonment (Sternlieb, 1973:257). Owners ceased real estate tax payments to a municipality soon after deciding to abandon a building

(Sternlieb, 1970).

Boston's vacant building policy reflects a misperception about the city's current urban development. Large scale property abandonment occurred in Boston's inner city neighborhoods in the 1960s and 1970s, a symptom of decreasing central city real estate values in the face of surging suburban land values (Spain & Laska, 1980). Urban land values shifted in response to transformations in the region's economy; Boston's inner city land values fell as the region lost a significant portion of its manufacturing firms to the southeast, including many textile firms which had historically driven Boston's economy (Gordon, 1984).

Approximately five percent of the South End's housing stock was legally abandoned in 1970, after twenty years of continuous capital disinvestment in Boston's manufacturing and commercial sectors reduced the value of inner city real estate (Finance Commission of Boston, 1970). In 1978 almost two percent of all of Boston's dwellings was abandoned, or 4,100 housing units (Burchell & Litoskin, 1981:35).

While Boston's vacant building policy targets those vacant buildings owned by persons who do not pay real estate taxes, not all vacant buildings in the city are tax delinquent. The NDEA survey of vacant buildings revealed that only 48 percent of the 800 vacant buildings in Boston are tax delinquent (PFD, 1986). Of the 107 vacant buildings identified by NDEA around Dudley Station in Roxbury, 50 percent are tax delinquent, 36 percent are not tax delinquent and 14 percent are owned by the City, mostly

the BRA (NDEA, 1985). In East Boston, only two of the twenty-three vacant residential buildings are tax delinquent (NDEA, 1985).

What do the non-tax delinquent vacant buildings in these neighborhoods mean? Speculators hold these buildings not to operate as rental property or to live in, but for a profitable sale. Vacant non-tax delinquent buildings cannot be addressed in the existing policy because they are privately held and not subject to foreclosure.

The policy also fails to recognize that not all tax delinquent buildings, whether vacant or occupied, have been legally abandoned by their owners. During each stage of the tax-title foreclosure process--tax-title taking--petition to foreclose--final decree--owner's redemption period--a tax delinquent owner has the opportunity to clear her property title of the tax-title lien. When a tax delinquent owner clears her property's tax-title, the owner reclaims the property. To clear a title, the owner may pay off all taxes owed to the City, request a tax abatement or a long term payment plan, or challenge and overturn a Land Court foreclosure ruling to redeem her interest in the property.

Only 1,838 of the 3,161 tax-title takings of Boston property recorded at the Registry of Deeds reached the petition to foreclose stage of the tax-title process in FY 1984 (APC, 1985). Of these, the Land Court awarded the City only 167 final foreclosure decrees. Eventually, the City actually gained clear title to only 48 of these properties (APC, 1985).

Reflecting Theories of Neighborhood Change of the 1970s:

Residential abandonment is the end product of all the urban ills of our society.

-George Sternlieb, 1970

Boston's vacant building policy is an example of a public policy guided by a theory that all neighborhoods eventually decline. Theories of neighborhood change, depicting stages through which neighborhoods pass on the way to being littered with abandoned and vacant buildings, lead to public policies subsidizing private reinvestment in deteriorated urban areas. Boston's policy, in attempting to sell vacant tax-foreclosed buildings to private owners, reflects this view. The policy fails to realize that the redevelopment activities, which transformed central city land values, have renewed the profitability of inner city residential neighborhoods and vacant and tax delinquent buildings.

During the 1970s the literature on neighborhood change described the life cycle of inner city neighborhoods as a process of declining health and vitality. Disinvestment in inner city neighborhoods during this time created a stock of legally abandoned buildings.

There are two broad models of neighborhood change, one based on neoclassical economics and one grounded in political economy. Here I summarize the life cycle theories arising out of each school to show how Boston's attempt at breaking the city's cycle of property abandonment reflects the 1970's theories of how cities change. Life cycle theories of neighborhood change are

also referred to as Stage Theories because they describe stages through which all neighborhoods pass (Birch, 1971:78). Although each school presents distinct analyses and solutions to the problem of declining neighborhoods, the stage theories presented by both conventional and radical urbanists assume neighborhoods inevitably decline and become marred by abandoned buildings.

Conventional life cycle theories borrow from the field of ecology, analyzing the life of a neighborhood using organic metaphors to describe the natural aging of the built environment. Neighborhoods age as all living organisms do; these theories assume the death of a neighborhood is inevitable (Weiler, 1983 :167). Incorporating neoclassical economic principals, life cycle theorists determine an area's supply and demand for housing by measuring indicators such as demographic changes, household perceptions, and building conditions. These theories also assume that an unlimited supply of new or better quality housing exists for upper income residents who move up and out of older neighborhoods (Kolodny, 1983).

Conventional theories of neighborhood change imply, if they do not explicitly propose, that housing resources "trickle down" from higher to lower income groups. This "filtering" process, according to some, is how the market provides a source of low income housing (Gale, 1984:9). As buildings age naturally, their market value declines and their availability to lower income persons increases. The denouement of the filtering process is abandonment--as the buildings age they completely deteriorate until the property no longer has economic value as determined by the market. Abandonment is the inevitable result of the natural

filtering process (Burchell & Litoskin, 1981:16).

Most life cycle theories begin by describing a viable or healthy community, one in which the market operates efficiently as the area begins its growth process (Table 1). A series of unstable real estate market conditions, usually caused by an "invasion" of new residents, eventually creates a dense and deteriorated neighborhood. In each theory, decline is inevitable; death or abandonment is usually the final stage in the life cycle.

Erickson draws upon an ecological theory of how change occurs in urban neighborhoods (Lurie, 1980).⁽⁸⁾ Decline occurs when upper income residents leave a neighborhood due to changing preferences for living space. This produces market instability followed by invasion of "immigrants". In the final stage, after a series of invasions and competition for the built environment, the old group leaves the area for greener pastures, and the new group becomes dominant (Lurie, 1980). As the income and the social status of the area's residents decline, the physical conditions of the neighborhood also deteriorate and the housing stock filters to people with progressively lower incomes.

Hoover and Vernon's theory assumes that preferences for housing and social environments change as households progress through the family life cycle (Hoover & Vernon, 1959:185-96). For example, in the Thinning Out stage, household size decreases due to children leaving home. In the Transition stage densities

8. The process at work in nature and in cities are Invasion, Competition, Dominance, and Succession.

Table 1: STAGE THEORIES OF NEIGHBORHOOD CHANGE

Theorist:	Stage:					
	HEALTHY	-----			ABANDONMENT	RENEWAL
Erickson	Stable Population Efficient Market	Wealthy Exit Market Imbalance	Immigrants Invade	Old Population Leaves	Change in Community Status	
Hoover & Vernon	Residential Development	Transition	Downgrading	Thinning Out		Renewal
Birch	Rural	First Wave of Development	Full Development	Thinning		Recapture
Ahlbrandt & Brophy	Healthy & Viable	Incipient Decline	Clearly Declining	Rapidly Declining	Abandonment	
Smith	New Construction	Landlord Control	Block Busting	Redlining	Abandonment	

Sources: Ahlbrandt & Brophy, 1975; Birch, 1971; Kolodny, 1983;
Lurie, 1980; Smith, 1979a

increase and blacks replace whites as the area declines (Birch, 1971). While this theory does not include a stage of neighborhood death, death must occur because "renewal" is the last stage in the life cycle.

Birch's stage theory of neighborhood change also predicts a process of neighborhood decline, although the life cycle culminates in a "recapture" or renewal phase of development. In the Recapture stage, "the land occupied by an old slum becomes too valuable to justify its use as an old slum, and its inhabitants become too weak politically to hold on to it" (Birch, 1977).

Ahlbrandt and Brophy's theory is the most fatalistic; they see decline as inevitable and equate decline and abandonment (Kolodny, 1983). Not only are selected buildings legally abandoned in this stage, but the entire neighborhood suffers from large scale disinvestment.

Smith has developed a stage theory based on political economy (Smith, 1979a). To Smith, real property is a commodity in the capitalist system, where property owners, investors, mortgage lenders, and other owners of capital seek to maximize profit (Smith, 1979b:540). The stages of his theory reflect the myriad disinvestment decisions of those controlling the real estate market. These decisions eventually result in unprofitability--inability of property owners to obtain refinancing, rents, and cash from sale of property (Smith & LeFaivre, 1984:49). Smith's stage theory simply outlines the processes occurring when capital is devalued, a process referred to as "filtering" by neoclassical economists (Smith, 1979b:545).

As in the conventional stage theories, decline ends with abandonment, when buildings can no longer be used profitably (Smith, 1979b:545).

Stage theories of neighborhood change illuminate the type of neighborhood in which vacant and abandoned buildings persisted in the 1970s. Abandonment is the last stage of a neighborhood's life, a life ending naturally with disinvestment, decay, and death (London, 1980:18).

While Boston's vacant building policy recognizes that abandoned, or vacant and tax delinquent buildings persist in abandoned areas of the city, it does not recognize the role played by these buildings in the neighborhood renewal process. The policy fails to confront the current urban renewal process currently transforming many of Boston's previously abandoned central city neighborhoods.

Vacant Buildings in Boston's Renewing Neighborhoods:

People are looking to pick up these dilapidated buildings due to Boston's hot real estate market.

-Leo F. Martin, 1986
Deputy Commissioner
Building Department, Boston

Some of Boston's inner city neighborhoods have been gentrifying since the mid 1960s, continuing the central city renewal process which began with Federally sponsored urban renewal programs in the 1960s. In the renewal process low income areas that have suffered from disinvestment for years have become transformed by public and private capital investment that has led to gentrification. In this process, speculators purchase tax delinquent vacant buildings as the neighborhood's real estate values increase (Marcuse, 1985:223). Thus, vacant tax delinquent buildings are avenues through which speculators accelerate the gentrification process (Smith, 1979b).

As in declining areas, vacant buildings in gentrifying areas are unused housing resources. However, vacant buildings that are held for future sale in a gentrifying area cannot be acquired by the City through tax-title foreclosure because they are not tax delinquent. Boston's policy does not allow the City to acquire vacant tax delinquent buildings in neighborhoods before their values increase, nor has it directed existing mechanisms that enable the City to acquire and/or control the use of vacant buildings once they have been purchased by speculative investors and are no longer tax delinquent.

In a city, like Boston, that has a lack of affordable

housing available to low income residents, the City has not chosen to tailor the vacant building policy to help meet this housing need. I suggest that the City may have included as one of its vacant building policy goals expanding the supply of affordable housing if it had explored how changes in the urban environment affect who owns and maintains or neglects vacant buildings.

Table 2 is a way to summarize how ownership and property conditions change as the neighborhood surrounding the property changes.

Table 2: HOW NEIGHBORHOOD STAGES CORRESPOND TO CHANGES IN WHO OWNS BUILDINGS AND HOW THEY ARE USED

NEIGHBORHOOD:	BUILDING:	OWNER:
Stable	Occupied	Owner-Occupant
Declining	Abandoned	Legal Owner Unclear
Abandoned	Vacant and Abandoned	Public Owner
Transition	Vacant	Speculator
Gentrified	Rehabilitated & Occupied	Investor

Boston's Current Urban Reality: Revitalization of Profitability

A community that has been bled dry of its wealth is now faced with a flood of investment which can affect it as drastically and as brutally as the last forty years of drought.

-Gaston & Kennedy, 1985

Neither Boston as a whole nor most of its inner city neighborhoods currently remain in the declining stage of a life cycle. Economic growth and public policies subsidizing reinvestment of private capital in inner city real estate have regenerated the profitability of the city's real estate. Since the 1950s, Boston's central city land values have increased due to transformations in the urban economy, including a growing regional high technology economy. Housing prices in the Boston area increased by thirty-eight percent during 1985 alone (Globe, 2/21/86; Globe 3/29/86c). Not all of Boston's neighborhoods are experiencing such dramatic increases in real estate values; some areas, like parts of Roxbury, remain dominated by vacant and abandoned buildings. These areas seem to have little potential for future investment and increased land values. However, the predominant urban process that is visibly transforming the urban environment today is the process of physical renewal.

Urban renewal was the foremost public policy to reform inner city land values. Beginning with the clearance of the West End in 1959, Boston's urban redevelopment program transformed the land values of the CBD by subsidizing private investment in the decayed downtown. Urban renewal funds provided public infrastructure and other facilities for the corporations requiring downtown locations (Fainstein & Fainstein, 1983).

Many of Boston's neighborhoods have been, or are currently being, transformed by the renewed profitability of downtown's real estate. The South End's transformation from a largely poor black community in the 1950s to a racially mixed upper income area by the 1980s exemplifies the effect of publicly subsidized private investment near a poor neighborhood (Auger, 1979). Today, the Dudley Station area of Roxbury, for decades the center of the poor black community in Boston, is the target for \$750 million in private and public investment--an influx of capital that has induced speculation in many of the Dudley area's vacant buildings (Gaston & Kennedy, 1985; Realtor: Foster & Foster, 1986; Cherry, 1986). This massive investment in the Dudley Station Area is a component of the BRA's plan to force downtown developers to invest in areas, like Dudley Station, which have historically suffered from disinvestment (Globe, 3/29/86; Boston Business Journal, 2/86).

Speculation is a strong accompaniment of gentrification. The behavior of speculators, and the real estate market generally, is perhaps the single most sensitive indicator of the type of change occurring in a neighborhood.

-Marcuse, 1985

Gentrification is not distinguished by the fact that capital is invested where once there was none; speculators are notoriously active immediately before a neighborhood undergoes gentrification.

-Smith, 1979a

Vacant non-tax delinquent buildings signal a transformation of the value of a community's real estate through the

gentrification process. Vacant buildings persist in gentrifying areas because they can be profitably held and sold. Property values increase due to market appreciation alone, attracting many investors and speculators. Therefore, a vacant building in a renewing area indicates that a speculator is holding a previously inexpensive housing unit, which she expects will become relatively expensive prior to resale (Hartman, 1981:28). When this occurs, the community has lost an affordable shell which could have been rehabilitated into low income housing.

Gentrification: The Transformation of Abandoned Neighborhoods

The gentrification process results in a class-based shift in who owns a community; the neighborhood becomes oriented to and dominated by newcomers of greater wealth than the old residents (Lang, 1982:8). Many studies describe the gentrification process as one in which upper income residents displace lower income residents (Pattison, 1977; Gale, 1984; Marcuse, 1985). In a gentrified area, the new residents may or may not own real estate in the community; however, both owners and residents are from upper income classes.

Gentrification occurs in neighborhoods that have suffered from disinvestment by individual property owners and institutions in the final stage of neighborhood change--the abandonment stage. Abandoned neighborhoods can be characterized by three conditions which lead to their transformation by the gentrification process: an undervalued stock of real estate, proximity to the newly revitalized central city, and an urban redevelopment policy which supports investment in those areas having the prior two

characteristics (Smith, 1984). Vacant and abandoned buildings are located in areas with these three characteristics.

Precondition of Gentrification: Undervalued Real Estate

Gentrification occurs in areas suffering from severe disinvestment; currently declining neighborhoods are gentrified communities of the future (Smith, 1979a). Clay's study documenting the characteristics of the renewal process in over 100 U.S. cities supports this analysis; his data show that gentrifying neighborhoods often contain housing with serious structural problems or some evidence of abandonment (Clay, 1983:25). Smith goes beyond Clay's study, analyzing the microeconomics of why reinvestment in depopulated and disinvested neighborhoods can be profitable.

Smith analyzes urban change from a Marxist perspective, arguing that the economic, social, and political characteristics of the larger capitalist society are manifest in the process of gentrification (Smith, 1979b:540). To Smith, land and buildings are commodities as well as centers of both production and consumption geared towards reproduction of society. For example, residential buildings are not just homes, but goods produced and used as a source of profit for capital (Smith, 1984:44).

Smith recognizes that while land and buildings are fixed in space, their value is not. When a neighborhood suffers from disinvestment, its capital stock depreciates; the land and buildings become devalued as capital leaves in search of more profitable locations. However, an extremely undervalued parcel of real estate has the potential of being a highly profitable

investment if the market will value the parcel higher in the future.

Smith sees gentrification as an extension of the process of decline (Smith, 1984). Devaluation of the physical environment creates the potential for renewal. Gentrification occurs in abandoned areas precisely because real property is undervalued in these neighborhoods (Smith, 1984:50).

Close to the CBD: Close to Urban Renewal

Heavy private investment in formally declining urban centers occurs when the relative future value of the core is enhanced...

-Fainstein & Fainstein, 1983

Gentrification occurs in communities which have not only been abandoned, but are targets for capital investment (Marcuse, 1985). Proximity to capital investment, such as being near redevelopment areas, can be a sufficient precondition for gentrification. Clay discovered that gentrification occurred in relatively old areas located within two miles of central cities (Clay, 1979 & 1980). Gentrification occurs in neighborhoods near the CBD that were not cleared by urban renewal programs. In the 1980s, these neighborhoods are close to the transformed core areas.

In this process...there is domination of a territory by upper-class owners and speculative investors (who force) up the exchange values of surrounding properties even without expenditures in rehabilitation to make them intrinsically more valuable; where rehabilitation does occur, the new price far exceeds the cost of improvement.

-Fainstein & Fainstein, 1983

Vacant Buildings: Land in Transition Held by Speculators

When land that's sat idly by for anything from months to generations suddenly gets transformed from wasteland (or headache) to money-making development--that's TRANSITION. That's also a killing in the market for the smart investor who made the deal.

-Joseph A. Conover, 1975
How to Make Big Profits From
Land in Transition

Speculators, like capital, flow to where the return on investment is highest. They engage in risky investments for quick and considerable profit (Goetze, 1983:102). Speculators maximize profit from investments in real estate by owning land only during transition periods, when land is passing from non-use to use or from limited use to higher and better use (Conover, 1975:308; Lindeman, 1976:143). The neighborhood context produces the conditions of profitability; if a speculator buys and sells in a rising real estate market she can receive windfall profits upon sale of property bought when it was relatively undervalued by the market (Conover, 1975:308).

Houses purchased as short-term investments are usually either rented on a month-to-month basis or left vacant while the property appreciates in value.

-Cunningham, 1978

A vacant building is a prime target for a real estate speculator--a vacant building is an almost costless type of property to hold. A tenantless building is a cheap building to operate, requiring no heat and utilities and only minimal maintenance and boarding up. Although a vacant building may be an easy target for arsonists and vandals, the building portion of

a property is not what makes it a target to a speculator; the land portion, or the relative location of the property to public and private investment, is the part of the parcel which becomes valuable in a transitional neighborhood. In addition, should the speculator turn developer and decide to rennovate the building, no tenants exist to either evict or challenge the owner.

C. Summary

By not analyzing how vacant tax delinquent buildings become the focus for speculative activity in transitional neighborhoods, the City fails to realize that it must not only quickly foreclose on tax delinquent vacant buildings, attempt to acquire vacant and non-tax delinquent buildings and regulate how investors use these buildings.

Boston's vacant building policy intervenes in the process of neighborhood decline by foreclosing on abandoned buildings in the declining stage of the life cycle. The City's attempt to more quickly foreclose on vacant and tax delinquent buildings is a logical way to seize, before speculators can, tax delinquent vacant buildings in transitional neighborhoods. However, the City's policy did not alter the tax-title foreclosure process in order to facilitate quick acquisition of property. Therefore, in the context of Boston's rising real estate values, the City will be unable to acquire vacant tax delinquent buildings before speculators, who resell such buildings for inflated prices and prevent them from being turned into affordable housing. Yet, in selling those buildings which it can foreclose to private owners

the City contributes to the gentrification of poor neighborhoods, and thus to a loss of low income housing. While Boston's vacant building policy attempts to expand the tax base, it is also an example of a public policy that leads to a shrinking supply of affordable housing.

IV. A NEW POLICY APPROACH

I propose a new policy approach to return vacant and tax delinquent buildings to residential use. The City's priority should be increasing Boston's supply of low income housing rather than maximizing real estate tax revenues. Instead of transferring ownership of foreclosed property to the private for-profit owners, the City should remove these properties from Boston's speculative market by donating them to a community-based land trust. By co-ordinating the rehabilitation through community development corporations, a land trust will protect these properties for low income housing development, reduce the rate at which abandoned neighborhoods gentrify, and return tax delinquent buildings to tax-paying status.

Currently the City is unable to foreclose rapidly on vacant or occupied tax delinquent property within the tax-title foreclosure system. Therefore, I suggest ways the City can acquire property to facilitate a land trust's activities, or those of a land bank. However, the City's efforts to increase the amount of low income housing in Boston should not stop here. The City should also institute development and land use controls to regulate who benefits from the transformation of abandoned neighborhoods by the gentrification process. I conclude this section with a discussion of existing property regulations that have been tested in other cities as legal methods of controlling who benefits from transformations in the urban system.

A. The Citywide Land Trust

To the individual goes the fruit of individual labor;
to the community goes the social increment.

-Davis, 1984

By transferring tax-foreclosed properties to a land trust, the City can protect the low cost of vacant tax delinquent buildings in abandoned neighborhoods and reduce the amount of low income housing lost to speculators as these communities gentrify.

The opportunity to include a land trust in the implementation of such a policy exists. A Citywide Land Trust (CWLTT) is currently forming in Boston. The founding members compose various CDC's and community organizations particularly concerned with the way the city's development affects the housing opportunities of its low income residents. The primary goal of the Citywide Land Trust is to intervene in Boston's speculative housing market by withholding property from the market and to assist CDCs develop low and moderate income housing (Flionis, 1985).

How does the Land Trust Work?:

A land trust is a non-profit corporation explicitly created to ensure the long term use of property for the benefit of the community (Flionis, 1985). A land trust retains ownership to the land portion of real property, allowing individuals purchasing its buildings to own only the value of the capital they invest in the building portion of the entire parcel. Land trusts have been designed with Henry George's philosophy of land ownership in

mind--that individuals create value in property by investing capital in improvements to land, while society produces the balance of a property's appreciation in market price (Carey 1976:267). Society creates value in a property when private and public capital is invested in surrounding properties and neighborhoods and in infrastructure (Davis, 1984:210). The value of a property is not only its material worth, but the social value conferred to it by virtue of its location in relation to other types of capital investments (Carey, 1976:257). The land portion of the property includes relative location, which bestows upon property much of its speculative value.

A land trust, in retaining full or partial interest in property, can remove from the speculative market the quality of property which makes real estate a valuable investment. If a land trust can acquire property, especially vacant and tax delinquent buildings in abandoned neighborhoods, it can then prevent speculation on these properties and thereby mitigate the effects of the renewal of abandoned neighborhoods.

A land trust protects the land portion of a property's value by retaining title to or a partial interest in property. A land trust leases the land portion of property to private individuals or to community development corporations in long term, renewable, and often inheritable lease agreements. The building component of a property is either rented, leased, or purchased from the trust. When a building is purchased from the land trust, the trust or a third party establishes a conventional mortgage agreement with the buyer. The trust protects its interest in the

property by holding a first option on buying back the building. All real estate taxes levied against property held by a land trust are paid by residents living in the buildings.

When a land trust does not exercise its first right to purchase a building, the resident-owner may sell the building, but at a controlled resale price below the building's market value. The resale price is the original cost to the seller adjusted by an inflation indicator, minus the value of depreciation and damage, plus the value of any improvements to the property during the ownership period. Therefore, any value created in the property by the changes in the larger society, other than general inflation, remains with the land trust. The trust can then resell housing at below market rates and enable low income people to rent or purchase housing they would not be able to in the private market.

The City's Role:

The City has two roles in working with the CWLT: acquiring property on behalf of the land trust and funding the operation of land trust. The City can legally take property using two mechanisms, the power to foreclose on property for non-payment of real estate taxes and the power of eminent domain.

Tax-Title Foreclosure:

The City could donate tax-foreclosed property to the CWLT. The cost to the City of foreclosing on delinquent property is the the administration costs of the foreclosure process. However, by selling foreclosed property to private owners and abating back taxes to private purchasers of unforeclosed tax delinquent

properties under the current policy, the City may not transfer the value of these costs to its low income residents.(9) An additional cost to the City of donating tax-foreclosed property to a land trust is the foregone revenue from a negotiated sale.

Eminent Domain:

The City should also explore the use of eminent domain powers as a method of acquiring vacant properties for the CWLT's activities. The City may take property in an attempt to protect the public welfare. Although the right to use private property for individual gain constitutes one of the supreme individual rights guaranteed in the U.S. Constitution, land is part of a collective good which the Courts recognize must be regulated to further the general welfare of society (Coomes, 1985). Imbedded in the doctrine of eminent domain is the philosophy that the ultimate owner of land is society as a whole (Caldwell, 1974:762). Eminent domain powers may be invoked by government to acquire property to further what the government believes are local needs. This may include neighborhood preservation, protecting affordable housing, and redistributing land ownership (Coomes, 1985).

9. The City also places liens on property for costs incurred by the ISD to board up and repair vacant and dilapidated buildings. However, the City does not currently foreclose on these properties unless they are also in tax arrears (Young, Weinerman, 1986). However, similar to foreclosures on tax-title liens, the judicial process to foreclose on ISD liens remains lengthy. Consequently, the City will not foreclose on these buildings, especially since all City-liens must be paid off before a title is legally transferred to a new owner. The City only forecloses on buildings in tax arrears (Young, 1986).

Berman vs. Parker (1954) set the legal precedent for cities to use eminent domain powers in controlling urban development through urban renewal plans (348 U.S. 26). Redistributing ownership of land has also been upheld by the Supreme Court as a legitimate public purpose. In Hawaii Housing Authority vs. Midkiff (1984) the Court upheld the use of eminent domain by the Housing Authority to reduce the extreme concentration of property ownership in Hawaii, concluding that redistributing property ownership was seen as a compelling public need (81 L Ed 2d 186).

The City of Cambridge has legislated the use of eminent domain to protect the housing opportunities of its lower income residents (Tab, 2/25/86). Its Full Occupancy Ordinance, an amendment to the City's rent control regulations, enables the City to take by eminent domain rental units and buildings which remain vacant without good cause. This legislation attempts to serve the public purpose of meeting the city's high need for rental housing.

Boston should enable the Public Facilities Department, which has powers of eminent domain, to acquire all property left vacant for over a specified number of days without proof of good cause. Instead of using the PFD to acquire property only for public institutions, the City should expand the scope of the PFD's powers to include acquiring property to further the City's new goal of transferring vacant and tax delinquent buildings to the Citywide Land Trust.

Obstacles to City Acquisition of Property:

The City is limited in using the power of eminent domain to take vacant tax delinquent property and vacant non-tax delinquent property because it must compensate owners of property taken through eminent domain in accordance with the fifth Amendment. Currently, the City does not have the financial resources to acquire property. The cost of taking tax delinquent property through eminent domain is the market value of the property minus the value of the foregone taxes. The cost of taking non-tax delinquent vacant buildings is the property's market value.

Despite the lack of City funds to acquire land, the land trust can still acquire property on its own. As a non-profit corporation, a trust can accept tax deductible donations of full or partial interests in property. In this way, an economic liability to an owner becomes an income tax benefit. To an owner who cannot sell in the private for-profit market his property that is located in a disinvested and depopulated neighborhood, donating the property to a land trust is an opportunity to receive a income tax benefit for a portion of the economic value of the property to the land trust. The land trust will accept property of low economic value because it recognizes the social, or non-economic value of property.

Unfortunately, the land trust's ability to acquire vacant property in transitional neighborhoods will be limited by how valuable the property in these areas becomes in the process of renewal. The rising value of residential real estate in Boston's inner city means that tax deductions may not be able to compete

with cash investment returns of fifty and sixty percent (Young, 1986; Globe 2/22/86).

However, the City may be able to contribute information, funding and technical expertise to further the CWLT's other activities. For example, Dallas refers its land trust, Common Ground, to tax delinquent property owners in order to facilitate the trust's effectiveness at finding potential donors. Although Boston's Clearing House has referred private investors to tax delinquent owners in the hope that a new, tax-paying owner would buy the delinquent property, the City could make it a policy to provide to the land trust free updated information on tax delinquent owners and how much back taxes they owe the City. Currently, CDCs must pay the Clearing House \$100 for a computerized printout of tax and ownership information on each BRA planning area (Sanborn, 1986).

The City could help fund the CWLT's property acquisition and development activities. The City of Burlington, Vermont, for example, contributed City staff time as well as \$200,000 in seed money to the Burlington Land Trust. Funding a land trust increases its ability to acquire properties for full market value or through bargain sales which gives an owner cash as well as a tax benefit for selling property at below market rates (Clark, 1985). In addition to funding the land trust, Burlington gives first priority to BLT properties in the city's various rehabilitation programs (CEDO, Burlington).

The Citywide Land Trust has been set up by community-based organizations to serve the housing needs of the city's low income

residents. Boston must gather the political will and financial resources to create a partnership with the CWLT if it is to help mitigate the effects of the gentrification of Boston's abandoned neighborhoods.

B. Land Banking as an Alternative to the Land Trust

The land bank allows communities to harness the economic vitality they are experiencing to protect what is good in their town.

- Kelly McClintock, Director
Environmental Lobby of Massachusetts

Since the City may be unwilling to fund property acquisition for the CWLT, Boston should consider lobbying for State legislation enabling a Boston Land Bank with powers of eminent domain and a funding source for the land bank's activities. A Boston Land Bank with the power of eminent domain could take property to meet a public need. As quasi-governmental state agencies in the United States, land banks hold property out of the private market to allow for its planned development.

Most land banks in the United States and Europe have been granted power of eminent domain to facilitate land acquisition (Strong, 1979). France's land banking system relies on "the Public right to pre-empt private land sales", as do the national systems in Sweden and the Netherlands. In 1970, the Rhode Island Industrial Land Development Corporation Act authorized the creation of semi-public corporations empowered to use eminent domain to acquire land for industrial land banks (Strong, 1979).

Currently two land banks operate in Massachusetts, the Massachusetts Government Land Bank (MGLB) and the Nantucket Land

Bank (NLB). Nantucket's Land Bank, the first of its kind in the nation, uses the power of eminent domain to acquire open space and protect the island community from uncontrolled land development and speculation (Globe, 10/27/85). The land bank is funded by a two percent transfer tax imposed on the sale of all real estate, as authorized by the Land Bank Enabling Act for Barnstable County (Draft Enabling Legislation, NLB).

A transfer tax for Suffolk County, which includes Boston, has been brought before the State Committee on Taxation. Bill 3076 has been introduced on request from the Flynn administration as part of a housing bill to finance affordable housing production (Jankowski, 1986). As a source of funding a combination of both open space acquisition and low income housing, the tax seeks to tap into the city's speculative market to produce what the private market fails to (Globe, 3/13/86). If such a transfer tax was imbedded in a land bank enabling act that also authorized eminent domain powers, the City could use transfer tax funds to acquire both tax delinquent and non-tax delinquent vacant property in abandoned neighborhoods.

Massachusetts' land bank, the Government Land Bank (MGLB), was established in 1975 to hold and redevelop Federal military bases evacuated in the 1970s. Legislation in 1979 allowed the Land Bank to also develop state surplus property and property in cities and towns found to be substandard or blighted open area (MGLB, 1982). Today the Land Bank acts as a finance agency for municipal economic development and revitalization projects (Hogan, 1985). Funded by \$40 million in Massachusetts General

Obligation Bonds, the MGLB uses this money to provide loans to purchasers of properties developed by the Land Bank. However, as the MGLB does not have eminent domain powers, it is limited in its ability to acquire land and hold it out of a speculative market.

When a city contributes land to a land bank, the city can use the land bank as an alternative to disposing of property to private owners. Many of the MGLB's properties come from the municipalities' tax foreclosed surplus property (MGLB, 1985). In 1982, the Land Bank initiated a Tax Delinquent Housing Program to "restore vacant or sub-standard residential property in tax arrears to productive use and tax-paying status" (MGLB, 1982:10). Boston has participated in the program, contributing to the redevelopment of five tax-foreclosed properties by abating 87 percent of each property's outstanding taxes. Two of the five projects created low income housing units with two of Boston's CDCs, Nuestra Comunidad Development Corporation and Living in Dorchester, Inc., who purchased the properties (MGLB, 1985). As long as these properties remain held by these community organizations, the property will serve the housing needs of the community.

As an alternative to returning vacant tax delinquent buildings to private for-profit owners, Boston should lobby the legislature to pass a Suffolk County land bank enabling act and exploit the financial resources of the Government Land Bank as a method of assisting CDC's to purchase and renovate foreclosed buildings.

C. Regulating How Property is Used in Gentrifying Neighborhoods

As part of a new policy to reduce the rate at which abandoned neighborhoods gentrify, the City should also adopt regulations that protect low income housing opportunities and control speculation in residential real estate.

The Supreme Court has continually redefined what constitutes public purposes in land use regulations. Property may be regulated by both the police power and the power of taxation (Bernard, 1979:23). Recent Court decisions illustrate that regulating property to protect low income housing opportunities and control speculation is legal when the regulation serves a public purpose while allowing an owner a reasonable return on her investment (Coomes, 1986; Cunningham, 1978:331).

Today, the Court maintains a broad definition of public benefit (Coomes, 1985). In Berman, the Court not only supported the use of eminent domain powers to take property for redevelopment, but set a precedent for a broad definition of the public good. Justice Douglas stated in his opinion that "the concept of public welfare is broad and inclusive" (348 U.S. 26).

A spectrum of land use regulations currently limits how individuals use property. Four types of regulations can mitigate the effects of gentrification pressures on abandoned neighborhoods: condominium conversion and rent control regulations, anti-speculation taxes, building code enforcement, and Special Purpose Zoning regulations.

Condominium Conversion and Rent Control Regulations:

Nash is not being called upon to operate a business or engage in a profession unrelated to the property; his land lordly obligations are those which arose out of the ownership of the property which he acquired.

-Justice Grodin

Condo conversion restrictions and rent control regulations are the most widespread type of mechanism cities use to restrict private property rights to protect low income housing opportunities. Limiting the ability of owners to economically and physically displace low income tenants, these regulations have been upheld by the U.S. Supreme Court and various State Supreme Courts as legitimate methods of what the Courts believe to be a legitimate public purpose.

Recently, the U.S. Supreme Court upheld the constitutionality of rent control in a case involving the City of Berkeley (Globe, 2/27/86). This ruling directs all lower courts to uphold the constitutionality of rent control in the future. State Supreme Courts in California, Massachusetts, and New Jersey have previously upheld this type of ordinance as an appropriate exercise of the police power to protect the general welfare. Cambridge's rent control ordinance, established to protect "decent rental accommodations, especially for low and moderate income families", has also withstood challenges in the State's Supreme Court (Flynn vs. City of Cambridge (1981), 383 Mass. 152).

Nash v. Santa Monica (1984) is one of the clearest examples of the right of a city to regulate property rights to protect a stock of rental housing threatened by condominium developers. In

this case, Nash challenged the City's rent control regulations which prevented him from demolishing his apartment building, and in this way removing rental units from the market. The California Supreme Court upheld the City of Santa Monica's regulation, maintaining that affordable rental housing served a legitimate public purpose. In addition, since the regulations did not prevent Nash from making a reasonable profit, they did not constitute a taking of property. In this case, Nash's private property rights were restricted to serve the low income housing needs of Santa Monica (37 Cal. 3d 97).

In cases challenging condominium conversion restrictions, the courts have maintained that "an owner's right to utilize his property must yield to a tenant's interest in keeping his home" (Puttrich vs. Smith (1979) 170 N.J. Super 572). In Grace vs. Town of Brookline (1979), the Massachusetts Supreme Court prevented owners from evicting tenants in order to convert rental buildings to condominiums, even though tenants "limited the property owner's ability to remove rental units from the rental market" (379 Mass. 43).

In a new policy on the reuse of vacant buildings, Boston could incorporate in its rent control regulations an ordinance requiring full occupancy of its rent controlled units and buildings, unless good cause for vacancy can be proved. As mentioned above, Cambridge has set a precedent for this type of regulation, amending its rent control regulations to make sustained vacancy a violation. The Full-Occupancy Ordinance prevents apartment owners from keeping units vacant, stating that

habitable rental units and buildings which are left vacant for over 120 days without "good cause" may be taken by the City through eminent domain powers. A unit vacant for more than three months that is not under rehabilitation or repair constitutes removal from the market, an action in conflict to the city's high need for rental housing (Full Occupancy Ordinance, Ammended Ch. 23, Sec. 1 of Ordinance 966). (10)

Cambridge has set a precedent for enforcing full occupancy in the city's rental housing stock. Imposing steep fines and a threat to take property from owners who keep their rental units vacant, the city now has a mechanism to force owners of rental property to meet the city's need for housing. Boston must consider this type of property regulation as a component of its rent control laws to eliminate the ability of owners to keep rental units vacant.

Boston's condominium conversion permit system is one way the City regulates the rate at which the city's rental stock is reduced by conversions of rental units into condominiums. The Permit System restricts condominium conversions to units that will be owner-occupied and to buildings where a majority of tenants agree to buy the converted units and/or form limited equity co-operatives (Condo Permit System, 1985). In this way

10. The ordinance seems to be more of a threat to get landlords to comply with the rent control regulations, than an approach to acquiring vacant units. To this date, no units have been taken although two of the 22 cases involving the ordinance have gone before the rent control board have been decided in favor of the City. According to attorneys at the Rent Control Board, the City is reluctant to evoke eminent domain powers according to the ordinance because the City lacks the financial resources to manage and hold property.

the permit system restricts investors from selecting rental housing as an avenue through which to profit from Boston's rising housing market (Tab 12/17/86). In 1985, seventy percent of all rental units converted into condominiums were completed by absentee investors (Tab, 12/17/86). Although the City is currently struggling with the way the Rent Control Board has interpreted the ordinance, the enactment of the permit system has cooled the willingness of Boston lenders to finance conversions (Boston Business Journal, 2/17/86; Tab, 3/4/86).

While rent control regulations and condominium conversion limitations reduce the ability of investors to receive the full potential return on rental property, these type of regulations alone will not significantly reduce the rate at which speculation in vacant and tax delinquent buildings occurs in transitional neighborhoods. Rent control regulations will not reduce the profitability of holding these vacant buildings for a speculator investor who purchases such buildings to resell them at inflated prices. Currently, vacant buildings present a potential loophole in the new condominium permit system since vacant buildings and units may be granted a removal permit because they are vacant. However, these regulatory mechanisms remain one component of an overall strategy to prevent the loss of affordable housing resulting from the gentrification process.

Anti-Speculation Taxes:

Those who enter business take... (the risk) that the business could fold due to high taxes.

- A. Magano CO. vs. Hamilton
(1934) 292 U.S. 40

Governments adopt anti-speculation taxes in an attempt to dissuade investors from entering a community's real estate market and fueling real estate price increases (Cunningham, 1978; Baker, 1975 & 1981; Hagman, 1975). While such taxes can only deter speculation in real estate, as a complement to other regulations, these taxes may in fact significantly reduce the level of speculative activity occurring in a community (Woolry, 1978:12; Hartman, 1981:34; Teachout, 1971:1172; Baker, 1981). (11)

Anti-speculation taxes are a source of revenue and a land use regulation. Anti-speculation taxes create a disincentive to speculation in property by taxing proceeds from transfers of interests in property or total value of the transfer at relatively high rates if the property is held for a short period of time. Most anti-speculation taxes incorporate a graduated tax rate that decreases as the holding period increases and/or decreases as the rate of profit made in the transaction decreases. The tax is paid by the seller, in addition to Federal taxes on income and/or capital gains. An anti-speculation tax intervenes in a real estate market by reducing speculative demand and supply for property in such a way as to reduce real estate

11. The effect of speculation taxes on the activities of speculators and the real estate market, as well as the tax incidence, is difficult to measure because the real estate market is interlinked with numerous other activities of the private market and public sector (Baker, 1981).

prices (Baker, 1981).

Like land trusts, speculation taxes are based on Henry George's philosophy that society should maintain the value in property created by the investment decisions of the society at large (Lindholm, 1977:12; Hagman, 1975:437; Davis, 1984). Such taxes return to the public a portion of a property's socially created value.

Legal Issues for Boston to Consider in Designing an Anti-Speculation Tax:

If a state can levy a tax based on legitimate public policy determination, the taxation of business profits at high rates is not a taking without just compensation in violation of the 14th Amendment.

-Teachout, 1971

In the only legal challenge to a U.S. anti-speculation tax, the Vermont Supreme Court upheld the Vermont Land Gains Tax as both a legitimate regulation of the land market for a public purpose and as a legal form of taxation. In Andrew vs. Lathrop (1974), the Court stated that regulating speculation in land was a compelling public need (132 Vt. 256). Vermont supplied factual evidence that increased speculation was associated with increased land prices. In addition, the Court held that the tax complies with both Federal and state constitutional requirements for designing a tax. The high rate (60 percent) imposed on profitable short-term holding was not declared unconstitutional as an unfair burden or uncompensated taking of property, or as an arbitrary exercise of legislative power (Baker, 1981). A tax cannot violate due process requirements just because it renders a business unprofitable (Cunningham, 1978:338, cites City of

Pittsburgh vs. Alco Parking Authority (1978) 417 U.S. 369).

Exemptions from the tax, such as primary home sites, were also declared to be non-discriminatory since they were reasonably related to the goal of reducing speculation by investors who are not owner-occupants (Baker, 1981).

In order for Massachusetts or any of its cities to adopt an anti-speculation tax, the tax must comply with the state's uniform taxation clause. Article 44 states that all income taxes must be levied at uniform rates (Bernard, 1979). Although taxes in Massachusetts may be classified in various categories having different tax rates themselves, rates within each classification must be the same.

Therefore, anti-speculation taxes must be legislated not as a type of capital gains tax on income, but as an excise tax, which may be levied at variable rates in Massachusetts (Baker, 1981:67; Bernard, 1979:51). Excise taxes are imposed on the exercise of a right of property ownership, including the right to own and transfer property. Even if an excise tax is imposed on a value of property, it legally taxes a right of property ownership (Cunningham, 1978:325). Davis, California has adopted a transfer tax on sales of residential housing graduated based on length of ownership using the concept of an excise tax; under an enabling act called the Document Transfer-Tax Act, cities in California may impose taxes on documents transferring real property, not the real property itself (Cunningham, 1978:318).

However, the uniformity requirement for taxes in Massachusetts is not insurmountable; Massachusetts has allowed

agricultural land to be assessed at its use value for purposes of property taxation under Article 99 of the state constitution and open space is preferentially taxed under Article 110.

Massachusetts has recognized how the power to tax is the power to regulate how land is used (Lindholm, 1977:23).

Taxes Targeting Speculation in Residential Real Estate:

The way in which an anti-speculation tax is designed depends upon its intended goal. Tax rates, holding period requirements, and exemptions may all be manipulated to create disincentives to speculation activity. To reduce the amount of speculation in land, Vermont levies a Land Gains Tax on the land portion of the gain from sales only when they are highly profitable and occur after short holding periods (Baker, 1975 & 1981; Hagman, 1975; Rose, 1973). The Province of Ontario, Canada designed its Land Speculation Tax to dissuade foreign investment in land. While Ontario imposes a twenty percent tax rate on the sale price of land for sales involving non-resident investors, residents pay a 0.3 percent tax on the first \$35,000 in value and 0.6 percent on the balance of the land value (Hagman, 1975:440). Santa Cruz, California designed an anti-speculation tax to target speculative sales of property by taxing only gain from extraordinary inflation. This tax exempted any property sold for no more than a three percent annual increase over the owner's purchase price (Cunningham, 1978:35). Seeking preservation of agricultural land, Montana House Bill 651 introduced an anti-speculation tax exempting all land which had restrictive agricultural use covenants running with the land (Baker, 1975).

While both the Vermont and Ontario taxes attempt to regulate the rate at which land prices rise, Washington D.C.'s speculation tax targets speculation in residential property. The only anti-speculation tax legislated by a city, D.C.'s tax imposed a 97 percent tax rate on gains of over 300 percent for property sold after less than a six month holding period (Richards, 1977). Using a graduated tax based on the holding time and the profitability of the transaction, the D.C. tax hit short-term purchasers with extremely high rates. Only San Francisco's proposed tax came near D.C.'s, with a tax rate of 80 percent for transactions occurring within a year from the purchase (Hartman, 1981).

Designing an anti-speculation tax exempting certain improvements to property as well as transactions involving owner-occupied dwellings can also target the speculator who invests little or no capital in improving the property. Exempting capital improvements and rehabilitation work may dissuade speculators from keeping their property vacant and uninhabitable (Richards, 1977). Both the San Francisco tax and the D.C. tax use exemptions to encourage capital improvement in property held for short periods of time by reducing the gain from sale by the cost of capital improvements to the property (Hartman, 1981:35). D.C. exempted transactions of property having two year warranties attached to all major rehabilitation work to encourage quality renovation of property (Hartman, 1981:33; Richards, 1977).

Boston can learn from both the Vermont and Washington D.C. experiences in designing a tax which will actually be implemented. For example, since D.C. did not create a department

to administer and enforce the tax, only 30 percent of transactions covered by the law filed taxes (D.C. Department of Finance and Revenue, 1980). In addition, numerous exemptions allowed all but four people of these thirty percent to claim they were exempt from the tax (Hartman, 1981). The D.C. tax was so poorly administered, including reliance on six agencies to implement the tax, that it was repealed in 1981 by the City Council (Hartman, 1981). Vermont collects the tax at the time of transfer, as did D.C. after the City realized that collecting the tax along with other state income taxes led to an inability to monitor and enforce compliance with the tax.

Most authors of articles about anti-speculation taxes advocate designing taxes which can be easily administered. Vermont's Land Gains Tax taxes only gain on transactions attributable to the land portion of a property. Property sellers must therefore calculate the Land Gains Tax for each transaction by allocating portions of the gain from sale and allowable deductions to the building and to the land. This tax requires expensive monitoring by the State to make sure that it is calculated correctly (Baker, 1975). Boston could eliminate calculating the gain from sale by taxing property value at time of the transfer, like Taiwan's Land Increment Tax, to simplify enforcing and administering a tax (Harris, 1977:57; Hagman, 1975).

An anti-speculation tax which is properly administered and enforced could dissuade investors from speculating in tax delinquent vacant buildings in transitional neighborhoods as well

as in all properties in Boston's transitional areas.

Building Code Enforcement:

Building codes regulate how property owners use and maintain their property in order to protect the health and safety of occupants and the general public. Boston should consider using the existing enforcement provisions in the State Building and State Sanitation Codes not only to condemn vacant buildings, but also to impose fines on their owners. Boston should also consider mechanisms other cities have used to dissuade owners of vacant buildings to keep their buildings vacant. Codes should be enforced on a case by case basis to protect displacement of low income tenants and owners who cannot afford the cost of extensive repairs and renovations to property (Hartman, 1974).

Under the current State Building and Sanitation Codes, Boston may fine code violators and condemn property posing extreme health and safety hazards to the public. However, since all fines must be set by a judge, imposing fines in court usually costs the City more than the value of the fine (Young, 1986). In addition, the City is reluctant to condemn hazardous buildings for the same reasons it is reluctant to foreclose on such property: the City assumes a high liability risk and is unable to quickly sell and/or redevelop the property. Also, since most buildings designated for condemnation by the building inspector should be demolished, the City is currently not condemning property because the City has not appropriated adequate funds for demolition recent years as Federal CDBG money has dried up (Young, 1986; McDermott, 1986).

An alternative to imposing court-ordered fines is to set fines by an administrative board. However, imposing fines for criminal action in civil proceedings lacking traditional criminal safeguards may not be constitutional (Carlton, 1965:148; Wienerman, 1986). However, under Chapter 40, Section 21D of the Massachusetts General Laws, ISD recently instituted fines, similar to those levied in a parking ticket, to commercial property owners who do not remove their rubbish according to code (Wienerman, 1986).

Fines and threats to condemn property may be used, however, as an enforcement lever if they can prevent property owners from profitably owning a rental building (Marion, 1983). To dissuade owners from keeping housing units vacant, Boston should consider imposing steep fines on property owners who keep their property vacant for over a designated number of days. The City should also consider threatening to take vacant property that violates the Building and Sanitation Codes.

Building codes stating that vacant buildings cannot persist in urban areas is not without precedent. New York City has legislated that multi-family buildings observed vacant for more than sixty days without a current certificate of occupancy, are in violation of the building code. The City threatens to fine owners of such properties and take the property if the vacant condition is not remedied (Boston Finance Commission, 1970:30). Unfortunately, this law is only enforced if the vacant property is also tax delinquent (Post, 1986; Taylor, 1986). Baltimore has passed an ordinance similar to New York City's; Ordinance 774 (1961) required owners of vacant buildings to begin repairs or

demolition within ninety days of a notice of observed vacancy (Carlton, 1965:834).

However, imposing fines for a vacant condition alone may not be legal if the building is safely boarded (Coomes, 1986; Wienerman, 1986). An alternative to imposing fines for purely vacant conditions would be to require all owners of rental buildings greater than five units to have a license to operate, renewable every year conditional upon an inspection that the property is actually being used for the purpose for which is zoned--housing. Washington, D.C. and Baltimore have both instituted this type of license, which is granted each year upon a City inspection. In D.C., owners who are found to be unlicensed operators can be fined and jailed for up to ninety days (Carlton, 1965:834). Licenses such as these have been upheld by State Courts based on the concept that the power to regulate an activity implies the power to license the activity (Carlton, 1965:834 cites McBriety vs. Mayor and City Council, (1959) 29 Md. 223).

An alternative to imposing fines or criminal sanctions against code violators is to prevent owners of property violating codes from deducting from state income taxes the costs of owning investment property. California has used this method to circumvent the judicial system of enforcing building code violations. California disallows state income tax deductions of interest, real estate taxes, depreciation, or amortization paid or incurred during the tax year for owners of rental residential property on cities' substandard housing lists (Marion, 1983).

Substandard housing "violates state law or local codes dealing with health, safety, or buildings and...has not been brought to a condition of compliance within six months..." (Section 17274 of the CA Revenue and Taxation Code). A bill currently before the State Assembly would reduce from six months to sixty days the time in which a substandard building's conditions have to be remedied under Section 17274 (California AB 4005).

California has also created an innovative program to assist low income owner-occupants to bring their property to code standards. The State pays back to each city's building inspection department the value of the deductions disallowed to resident-owners within their jurisdiction (Marion, 1983: 404). Under the legislation, a city can set up a loan fund to assist low and moderate income owners correct property conditions that endanger lives (Marion, 1983b:400). By co-ordinating with the California Department of Revenue, San Francisco received \$181,151 in both FY 1979 and 1980 for its Code Enforcement and Rehabilitation Fund (CERF) (Marion, 1983b:400).

To implement these types of regulations, Boston will have to increase the funding level for the ISD's Abandoned Building Unit. Although the Mayor recently allocated additional funds to the ISD for the Pilot Program in Dorchester, this program will only be continued if it receives funding in the future. In addition, the ABU needs fifty building inspectors alone to simply cite the code violations of all Boston's buildings (Young, 1986).

Tailoring building codes to reduce speculation in vacant and tax delinquent buildings is probably the least effective type of regulation discussed thus far. However, the existing State

Codes provide enforcement techniques to induce negligent land lords to maintain their property for the public good; discretionary code enforcement that penalized owners of both tax delinquent and non-tax delinquent vacant buildings may in fact dissuade speculators from investing in such properties.

Special Purpose Districts:

Special Purpose District zoning regulations enable a city to control all aspects of development in a neighborhood. Boston could implement this type of planning tool in its transforming neighborhoods to dramatically affect how these neighborhoods renew. Since Euclid vs. Ambler Realty (1929), zoning has been upheld as a legitimate exercise of government's police power to control urban development. (271 U.S. 365) No development in a Special Purpose District can proceed without approval from a zoning board.

The Boston Experience: the IPOD

Boston has just instituted a Special Purpose District under the newly revised zoning code called an IPOD: Interim Planning Overlay District. In revising the zoning code, the BRA developed the IPOD to enable the City to prevent unplanned development in designated areas of Boston. When an area is declared an IPOD, the BRA and a community advisory board establish a new zoning code for the area. Lasting for two years, IPOD status means that the BRA will require special permits for any changes in property use or status, and the community will have an institutionalized method of participating in both its current and future

development. Theoretically, an IPOD can be used to prevent condominium conversions, speculation in real estate, and displacement of low income tenants in transitional neighborhoods.

However, the City has only imposed one IPOD in a residential neighborhood. For example, Boylston Street is an IPOD in order to protect the low rise character of this commercial strip. Similarly, an IPOD will soon be implemented along the length of Huntington Avenue, home to approximately fifty cultural and educational institutions. Unfortunately, the BRA has not designated as IPODs those areas in Boston, like the Dudley Station area, that have been targeted for public investment and as a consequence, attract real estate speculators. The City has not chosen to use the IPOD as a way to restrict displacement of low income residents as the value of real estate increases in transitional neighborhoods. Only East Boston, which has no history of disinvestment and displacement, has been designated as an IPOD by the BRA.

The BRA gave East Boston IPOD status to preserve the area's affordability. In the last few years the renewal of East Boston has dramatically increased the area's real estate values by 200 to 300 percent. Although rate of increase in the number of rental units converted to condominiums from 1980 to 1985 has been over 1000 percent, only 14 buildings have been converted. This "trend" of increasing conversions led to the IPOD designation (Globe, 2/22/86a). In addition to controlling the number of rental units converted into condominiums in the next two years, IPOD status will allow the City and the community to decide the fate of East Boston's twenty-three vacant residential

buildings, including the twenty-one that are not tax delinquent.

If the Dudley Square area were an IPOD, the City could decrease the level of displacement likely to occur following the massive investment in the area's real estate. Currently, speculators hold many of the vacant residential and commercial buildings, waiting to realize appreciation in property value when the City tears down the old elevated subway tracks in the next year or so (Realtor, Foster & Foster). If this area had been designated an IPOD prior to the the BRA's announcement of its revitalization plans for the area, perhaps the City could have controlled who will benefit from reinvestment in the neighborhood (Gaston & Kennedy, 1985).

Boston now has a zoning tool that possibly can prevent large scale displacement of low income residents in transitional neighborhoods by controlling how development affects the cost of property in such areas. Marcuse recommends that all of New York City's transitional areas be placed in zoning districts to ensure renewal occurs with out displacement (Marcuse, 1985). Boston must also use the IPOD to help mitigate the effects of the gentrification process in poor neighborhoods.

D. Summary

The City has a choice. It can support gentrification of poor neighborhoods to increase the municipal tax base or increase the number of housing opportunities for low income people. While these two goals are not the only possibilities for a City policy on vacant buildings, the Flynn administration has

directed considerable effort to meeting these goals and proclaiming to the citizens of Boston that the Mayor considers achieving each goal a "priority" of his administration. The existing policy approach attempts to meet the goal of expanding the municipal tax base, yet it is counter productive to Flynn's efforts to increase the supply of affordable housing. In transferring vacant buildings to the Citywide Land Trust and controlling how people use residential real estate, the City may be able to work towards reaching both goals through its policy on vacant buildings. This new policy approach may not lead to as high a rate of increase in the City's tax base, but it can at least secure real estate taxes from properties that were not previously generating tax revenue. At the same time, the new policy approach enable the City to both protect the supply of existing affordable housing and create affordable housing opportunities out of abandoned buildings.

This new policy approach may be implemented by first reforming how the City acquires vacant buildings, both tax delinquent and not tax delinquent, by using tax-title foreclosure and eminent domain powers. The City should donate these properties to the Citywide Land Trust, which can remove the land portion of property out of the speculative market and thus prevent increases in these properties' value.

If The City is unable to acquire vacant buildings through either tax-foreclosure or eminent domain, the City should consider donating these buildings to the Government Land Bank or a Suffolk County land bank (if and when one is allowed by the state legislature) that can perform functions similar to the

Citywide Land Trust.

City efforts to create affordable housing out of vacant buildings should not stop at acquiring them and donating them to the Land Trust or a land bank. The City must control how vacant buildings are used to mitigate the effects of speculation in residential real estate that results in increased housing prices. If the City has the political will to do this, the legal mechanisms--condominium conversion and rent control regulations, anti-speculation taxes, building code enforcement tools, and Special District Zoning--exist to help the City realize the goal of increasing the housing opportunities available to low income people. Perhaps the City can then resolve the dilemma of unhoused residents living in neighborhoods littered with vacant buildings.

V. EPILOGUE

I began this thesis wondering why vacant buildings persist in renewing neighborhoods. In the process of studying both the literature on neighborhood change--decline, renewal, and gentrification--and Boston's vacant building policy, my original question evolved into a vehicle for entering an abyss called urban public policy.

While exploring the role played by vacant buildings in the process of neighborhood change, I stepped into the shoes of the City Bureaucrat to consider how the City might rethink its vacant building policy to not only encompass the goal of receiving real estate taxes from abandoned buildings, but the objective of increasing the supply of affordable housing. What the City policy could not do, or worked against--increasing the housing opportunities for low income people--became the point of departure for both my analysis of the policy's limitations and my suggested policy approach. The weakness to the current policy has hopefully become the strength of the new policy approach, which not only secures real estate taxes for the City, but creates housing for the city's low income residents.

Yet, when I entered the realm of City Hall to formulate an alternative policy approach to vacant buildings, I unwittingly created a contradiction. While I criticize the City's ability to implement the vacant building policy, nevertheless, all my policy recommendations, both to the policy's implementation and for a new policy approach, are dependent on the City--its mandate, structure, and resources. Although I propose an alternative

system for an information network on vacant buildings, I do not propose a fundamental reorganization of the way in which Boston municipal government operates. In addition, while I recommend that the Citywide Land Trust should be given a primary role in the new policy approach, I suggest that the City form a "partnership" with the Land Trust. Again, the policy approach I suggest is either imbedded in or dependent on the City.

Not only do I contradict my analysis of the policy when I propose an alternative policy that is implemented by Boston's city government, but I imply that the City will embrace a policy approach to increase the supply of low income housing by reducing the extent to which Boston's poor neighborhoods gentrify. This assumption is naive; gentrification is to most municipal policy makers a desired outcome of both urban public policy and private market forces. Although gentrification involves an increase in real estate values that displaces lower income residents from poor inner city neighborhoods, it also increases the City's tax base, increases the amount of disposable income spent in the city's businesses, and reduces the level of municipal expenditures on social services for the poor. Thus, gentrification is "good" for Boston and City Hall. By increasing real estate values, gentrification is beneficial to those who own urban land, especially residential property.

I propose a policy approach that is "good" for the city's poor residents, not just for the few who own real estate. An unspoken premise of this thesis is that redistributing land from for-profit owners to the community at large is a starting point for an equitable policy on returning vacant buildings to

residential use. A public policy on vacant buildings must explicitly consider who owns the vacant buildings because who benefits from vacant buildings depends to a large extent on who is allowed to own them. Urban public policy must directly face the issue of land ownership because most, if not all, urban policy affects who has the right to own and therefore use land resources.

Boston's vacant building policy and the new policy approach I have suggested share two themes. Each policy approach states who should own vacant buildings and how these buildings should be used. Moreover, each policy is a reaction to recent issues emerging from Boston's path of development. On one hand, Boston's vacant building policy must have as a goal increasing the amount of collectable real estate tax revenues, for the City is faced with a finite amount of taxable land, a decreasing share of Federal funds, and infinite possibilities for expanding City expenses. Boston must also resolve the dilemma of a shrinking supply of housing available to low income people who live in neighborhoods with marred by unused housing resources. The policy approach I have suggested is one way to resolve this development paradox while returning vacant buildings to residential use and tax-paying status.

APPENDIX A:

SUMMARY OF THE FUNCTIONS OF DEPARTMENTS INVOLVED WITH THE TAX-TITLE FORECLOSURE PROCESS, CITY OF BOSTON

Six City departments are involved in the tax-title foreclosure process: the Collector-Treasurer's Office, Tax-Title Office, State Land Court, Assessing Department, Real Property Department, and Public Facilities Department. Four stages compose the foreclosure process: tax-title taking, petition to foreclose, final decree, and owner redemption period.

COLLECTOR-TREASURER:

The Collector-Treasurer collects real estate taxes from property owners. Upon non-payment of real estate taxes for one year, the Collector-Treasurer records a tax-title taking, or tax lien, with the Registry of Deeds where all titles are filed for Suffolk County. If a property remains tax delinquent for more than six months after the tax-title taking has been recorded, the Collector-Treasurer requests foreclosure petition processing from the Tax-Title Office. This six month delay is the only statutory time limit imposed on the tax-title foreclosure process.

TAX-TITLE OFFICE:

As one section of the City's Law Department, the Tax-Title Office files foreclosure petitions in the State Land Court. The Tax-Title Office has historically exercised much discretion in selecting which foreclosure petitions to forward to the Land Court (APC, 1985). The Tax-Title Office requests trial dates for contested actions and requests the Land Court to foreclose on property if the petition to foreclose is not contested.

STATE LAND COURT:

Understaffed with only one sitting judge and five staff examiners, the Land Court is responsible for deciding all foreclosure cases in Massachusetts. The Land Court hires title examiners or uses staff title examiners to do title searches going back into a property's records for twenty years in order to identify all parties who have an interest in a property subject to a foreclosure petition. The Court also notifies all interested parties according to State law, and publishes the information in the Boston Globe if the whereabouts of the any interested parties is unknown by the Court.

The Land Court grants a decree of foreclosure to the City if the ruling judge decides against the delinquent property owner. The Court also rules on contested petitions to foreclose and final foreclosure decrees. Final foreclosure decrees may be contested within one year after the foreclosure decree is filed, and within 90 days for abandoned buildings. These periods are referred to as the owner's redemption period. In the case of an

appeal ruled in favor of the previous owner, the Land Court directs the owner to the Assessing Department.

ASSESSING DEPARTMENT:

The Assessing Department has discretion to abate back taxes for hardship cases, including elderly, low income, and over-assessed owners. The Assessing Department also negotiates extended payment plans for hardship cases which cannot pay current taxes biyearly as the City requires.

REAL PROPERTY DEPARTMENT (RPD):

The RPD manages City property acquired through the tax-title foreclosure process, until the property is held by the Public Facilities Department or the Boston Redevelopment Authority for reuse.

PUBLIC FACILITIES DEPARTMENT (PFD):

The PFD receives foreclosed property from the RPD and disposes of City surplus property, including foreclosed properties and obsolete City schools, hospitals, and other public facilities. The PFD has eminent domain powers to acquire property for public purposes.

SUMMARY OF TAX-TITLE FORECLOSURE PROCESS

ACTION:	WHO TAKES ACTION:	WHEN: *
1. Taxes due (1st half)	Collector-Treasurer	November 1
2. Demand for Payment	"	November 15
3. Notice of Warrant	"	December 1
4. Taxes due (2nd half)	"	May 1
(Owner does not pay taxes and is now considered delinquent)		
5. Tax-Title Taking (tax lien)	Collector-Treasurer sends to Registry of Deeds	June 30
6. Petition to Foreclose	Tax-Title Office sends to State Land Court	December 30

TIME ELAPSED PRIOR TO ACTION TAKEN BY LAND COURT: 13 months

7. Foreclosure Case (title search, notice, appeals)	State Land Court	Up to 13 months **
8. Final Decree Granted Boston	State Land Court	"
9. Boston Acquires Clear Title	State Land Court	1 year after Final Decree (Owner's Redemption Period)

TOTAL TIME ELAPSED IN TAX-TITLE FORECLOSURE PROCESS: 2 1/2 years
to
3 1/2 years

Sources: APC, 1985; PDC, 1985; and Collector-Treasurer, 1985.

* In a non-discretionary process in an efficiently operating system.

** Once the case reaches the Land Court and is contested, the actual ruling on the case can take from six months to eighteen months.

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