

# Judicial In Rem:

Baltimore's new tool for acquiring vacant and abandoned properties.

**Judicial In Rem Foreclosure:** Judicial In Rem Foreclosure allows the Baltimore City Department of Housing & Community Development (DHCD) to foreclose on the liens on a vacant lot or building where the value of the liens exceeds the assessed value of the property, and thereby take title to the property. (Liens are unpaid property taxes, environmental citations, water bills, etc). This allows DHCD to acquire abandoned properties in a block by block manner and work with communities on the outcomes for these properties. This should improve the pace at which the City can address properties that have a blighting influence on our neighborhoods.

## The Need

According to the Department of Housing and Community Development, as of September 2022, the vacant and abandoned properties that have Vacant Building Notices total about 14,663 and of those, Baltimore City owns 1,116 of them (not even one 1/3 of the properties).

Vacancy and blight contribute to trauma, stress, and high violence/crime. The highest concentration of vacant and abandoned properties is in the 9th Councilmanic district, holding almost 5,000 of them. The Council district with the least vacant buildings is the 3rd District.

## Current Tools and Obstacles

- Acquisition by purchase - DHCD may purchase properties from the owners after approval from the Board of Estimates if there is an agreement on price, there are no external (non-city) liens on the property, and the total liens are less than the fair market value. Such purchases are done to complete a redevelopment site, or complete a demolition area.
- Acquisition through condemnation - If acquisition by purchase is impossible because there's no agreement on price, the liens are too high, or the owner doesn't hold clear title to the property, DHCD will sometimes condemn property after obtaining approval from the Board of Estimates. As with purchase, this is often done to complete a redevelopment site or complete a demolition area. The law requires the City to pay the owners fair market value for the property. A condemnation case is filed in Circuit Court, and the owners may contest the taking or the valuation. A condemnation case will result in the clearing of all title encumbrances on the property.
- Acquisition through traditional tax sale foreclosure - DHCD has to wait for a property to go through tax sale, and if no one purchases the tax sale certificate, then City will become the certificate holder, and may foreclose on the property by filing a foreclosure case in the Circuit Court. This process takes at least 18 months.
- Disposition through Vacants to Value - City-owned vacant lots and buildings are sold to home buyers, small developers, community organizations, etc., for the purpose of redevelopment and/or blight elimination.
- Disposition through Request for Proposal/Request for Qualifications and Expressions of Interest:
  - ▶ DHCD solicits bids for work on various lots and properties based on the outcomes articulated by residents and communities. These processes allow for the City to choose developers for various projects. DHCD then enters a sale and development contract, known as a Land Disposition Agreement, for the properties with a small developer, community organization or larger developer with a Land Disposition Agreement (LDA).
- Receivership - this is a blight elimination strategy where any time a property has a VBN, whether it is current on the taxes or not, the DHCD Code Enforcement may file a case in Housing Court (in the District Court), and if the owner does not resolve the VBN, a receiver is appointed by the court. The receiver then auctions the property to the highest bidder, who pledges to rehabilitate the property.

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The drawback is that the community cannot control the outcome of the property. Often communities and the CDCs they work with cannot bid high enough - particularly in this market - to obtain properties for their community development and affordable housing goals.

## Judicial In Rem Foreclosure is a New Tool

How it works:

- Judicial In Rem foreclosure is the process by which the City can foreclose on a vacant lot or vacant building if the municipal liens exceed the assessed value of the property. When the City decides to use the Judicial In Rem process, provided there is no tax sale certificate holder, the City may remove the property from the tax sale. Thus, the City does not have to wait for the property to go through tax sale first.
- DHCD must file a Judicial In Rem foreclosure case in the Circuit Court, and give proper notice to any person with a legal interest in the property. After each interest-holder has been served with notice, if the liens are not paid or the foreclosure is not successfully contested, the court will award title to the property to the City.
- Through Judicial In Rem foreclosure, the City will be awarded title to vacant lots and buildings, and will then make them available as cleared lots or vacant buildings for redevelopment to potential homeowners, small developers, community development organizations, developers, or other interested parties working to meet community needs and goals.

## Benefits of Judicial In Rem

- If the title work and service are conducted successfully, the circuit court has already promised a separate track for these cases, so the process of the average foreclosure case should just take 6-8 months from the date of filing to the date the City is awarded title.
- Once the City takes title, an auction is not necessary. DHCD will work with communities to determine the best outcomes for properties, or groupings of properties.
- Using Judicial In Rem foreclosure, once it is fully staffed with attorneys and support personnel, DHCD can significantly increase the number of vacant properties it offers for redevelopment.

## How Communities Can Participate

- Communities can submit property addresses to DHCD for review for In Rem Tax Lien Foreclosure. Remember that the property must be a vacant lot or have a Vacant Building Notice (VBN). DHCD will complete analysis to see if the property qualifies for In Rem. To submit a property to DHCD please use this form: <https://dhcd.baltimorecity.gov/rem-eligibility-form>
- If a vacant and abandoned property does not have high liens, residents should continue to call 311 to request a Vacant Building Inspection. DHCD will come to the property and give a citation of \$900 if a VBN is issued and not abated, or if a property that already has a VBN is not abated. (Council bill 22-0207 as proposed would increase that fine to \$1000 per violation, with each day the property remains in violation being a new violation).
- Make sure your community has a community plan for what you want to see happen with the vacant and abandoned properties in your area.