



# **BLIGHT**

## **Transition New Orleans Task Force**

Presented to  
Mayor-elect Mitch Landrieu  
City of New Orleans

April 2010

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Ellen Lee  
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## Section I: Acknowledgments

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The Task Force would like to extend a special thank you to the citizens who attended our community meeting on April 5, 2010 at Southern University of New Orleans and to those citizens who used the “Share Your Ideas” feature of [www.transitionneworleans.com](http://www.transitionneworleans.com). All of these individuals provided us with invaluable input and commentary in furtherance of the mission to eradicate blight.

The Task Force would also like to extend its appreciation to all persons and experts who contributed their time and talent to aid our discussions and deliberations at Task Force meetings.

## **Section II: Executive Summary**

New Orleans faces a major enforcement and redevelopment challenge as it considers what to do about blight, with nearly 60,000 vacant, derelict homes and other structures littering the urban landscape. Previous enforcement initiatives have had limited effect on the daunting problems, and recovery work by neighborhood leaders has been hamstrung by abandoned buildings that pose safety and health hazards and deter new investment.

The Blight Task Force produced a comprehensive plan to address all types of blight, pre-Katrina and post-Katrina, commercial and residential, occupied and unoccupied, public and private. The plan can be quickly implemented by the new administration as it has a sound foundation in law. The Task Force identified two principal strategies for dealing with blight: code enforcement and expropriation. Code enforcement has the capability to process large numbers of deteriorated buildings, which makes it the primary tool for addressing blight problems in New Orleans' post-Katrina landscape. It is also important that the City partner with the New Orleans Redevelopment Authority (NORA), the Housing Authority of New Orleans (HANO), neighborhood associations, and other entities in combating blight.

### ***Key Recommendations***

- Commit additional resources to code enforcement so that code enforcement hearings or other remediative measures touch most or all of the estimated 60,000 blighted properties within the first three years of the administration.
- Establish a system to document the outcomes of code enforcement hearings.
- Coordinate code enforcement programs in City Hall with neighborhood organizations in the community.
- Implement broad-based code enforcement that applies to all types of residential and commercial properties and operates pursuant to written policies and procedures.
- Provide “assistive services” at hearings to facilitate rehabilitation and maintain homeownership.
- Hold regular code lien auctions, steadily increasing their frequency and the number of properties offered.
- Coordinate with NORA regarding blight remediation and redevelopment activities in a cooperative endeavor agreement.
- Avoid use of expropriation to assemble large tracts of property for third party transfer, as current Louisiana Constitutional restrictions disallow sale or lease of expropriated property.
- Build a strong partnership with neighborhood associations in the coordinated assault on blight.

- Designate a team of City personnel and neighborhood representatives to begin negotiations with the Louisiana Recovery Authority (LRA) in seeking a solution to the lack of rebuilding compliance among Option 1 participants in the Road Home program; consider giving them the option to switch from Option 1 to Option 2, which would turn their property over to public control.
- Enter into a cooperative endeavor agreement with HANO that calls for a single City/HANO inspection process for Section 8 properties.
- Vigorously enforce existing law where a property is in “imminent peril” of collapse.
- Commit, along with other public entities, to cleaning up and maintaining City and other public properties and prepare plan for addressing these needs.
- Form a collaborative program with homeless advocacy groups to address housing needs of persons living in “vacant” properties.
- Use volunteers to help document and remedy blight problems.
- Explore creation of a land bank to plan for and implement alternate uses of property.
- Prepare training on simplified, expedited procedures for dealing with properties burdened by unopened successions.

### **Section III: Overview of Mission and Process**

#### **A. Mission**

##### *1. Transition New Orleans Task Forces*

Five days after his election as the Mayor of New Orleans, Mitch Landrieu launched Transition New Orleans. Led by Co-chairs Judy Reese Morse and Doug Thornton, the transition team worked to identify challenges and opportunities for the City and provide information to guide the new administration.

Transition New Orleans created 17 Task Forces, gathering hundreds of community leaders and experts to help shape the transformation of a great American city. Unprecedented public input was received through 16 community meetings held throughout New Orleans. Hundreds of people voiced their thoughts at these public forums and over a thousand more have shared ideas at [transitionneworleans.com](http://transitionneworleans.com) and through surveys and questions posed by the Task Forces. The Task Forces have worked hard, diligently gathering information and applying their expertise to develop recommendations for the Mayor-elect's consideration.

The Task Forces' recommendations:

- identify the most important opportunities and challenges for New Orleans upon which the administration should act during the first 100 days;
- identify the mid- to long-term policy priorities that the administration should consider in the first six months and beyond; and
- recommend ways to measure success in order for the City to track progress going forward.

##### *2. Blight Task Force*

Mayor-elect Mitch Landrieu formed the Blight Task Force with the mission to report back on recommendations to eradicate both commercial and residential blight, ensuring that our community is an attractive place to live, work, and play. The Task Force has been directed to (a) propose a strategic plan for blight eradication, (b) identify obstacles to eradication, (c) identify ways to engage neighborhood groups in the process, (d) identify ways for the City and the New Orleans Redevelopment Authority to better collaborate, (e) identify funding sources, and (f) suggest benchmarks for tracking progress.

#### **B. Timeline and Working Process**

The Task Force has met often and regularly during the mayoral transition period, working to further understand the current state of the blight issue, the problems faced, and how to take advantage of the opportunities ahead. In the course of these meetings and interviews, the Task Force gathered and reviewed numerous materials that may prove helpful in providing readers of this report with more detail and a greater depth of understanding. Those documents are referenced at appropriate points in the text and are listed at the end of the report.

The Task Force met on the following dates:

- **March 12, 2010:** At this initial meeting, Task Force members reviewed and discussed the vision statement describing their scope of work. They began identifying resource people and identified several future meeting dates.
- **March 17, 2010:** The Task Force discussed the effectiveness of the City's code enforcement program, prospects for redevelopment of idle tracts of land, and NORA's anti-blight program.
- **March 23, 2010:** The Task Force met with representatives of the City of Baltimore and Joseph Schilling of Virginia Tech who shared thoughts and information on code enforcement and blight remediation strategies.
- **March 29, 2010:** The Task Force brought leaders of non-profits into the discussion of addressing blight and remediation strategies.
- **April 5, 2010:** The Task Force met with Frank Alexander, former Dean of Emory Law and expropriation legislation expert.
- **April 5, 2010:** The Task Force held its joint community meeting with the Housing Task Force.
- **April 14, 2010:** The Task Force discussed the content and recommendations of this report.

The Blight Task Force also recognized the need for our work to be informed by the work of other Transition New Orleans Task Forces, including but not limited to Housing, Sustainable Energy and Environment, Neighborhood Development, and Economic Development. We have had discussions with representatives from each of these Task Forces to share what we know and to learn from them.

#### **Section IV: Assessment of Current State of Blight and Remediation Strategies**

In a reform agenda published during New Orleans' recent mayor's race, Forward New Orleans, an influential coalition of civic groups, noted that even before Hurricane Katrina, the City's stock of blighted properties "far exceeded reasonable tolerance." And with Katrina's destruction, the problem exploded, leaving New Orleans neighborhoods with nearly 60,000 abandoned structures, posing a daunting public policy and enforcement challenge.

"Blighted properties present a significant obstacle to economic growth," the Forward New Orleans agenda states. "They broadcast a lack of respect and responsibility by property owners and the inability of our local government to manage the problem to resolution."<sup>1</sup>

Complaints about blight permeate public hearings and newspaper opinion pages. Desperate pleas for City Hall to craft a focused strategy for forcing action on abandoned homes could be heard from citizens attending a public forum called by the Mayor-elect's Blight and Housing Task Forces. They are offered up by citizens who have worked tirelessly and at great expense to restore their own homes after Katrina flooding, only to see their home values—and their own spirits—diminished by derelict properties nearby.

In a report to Mayor-elect Mitch Landrieu's Blight Task Force, Joseph Shilling, a Virginia Tech University metropolitan studies consultant working with the New Orleans Vacant Properties Campaign, noted: "Blight permeates virtually all neighborhoods in New Orleans. Everyone is aware of its impacts on the city's economy, the health of its neighborhoods, and the psyche of its residents ... Based on data from other cities, one can make a powerful case that blight prevent(s) the city from making the full recovery it so desperately deserves."<sup>2</sup>

A fundamental cause of New Orleans' gargantuan struggle with blight, easily one of America's worst, has been the erosion of its population base, beginning long before the catastrophic events of 2005. As Greater New Orleans Foundation executive Ellen Lee, a co-chair of the Blight Task Force, has noted during informal discussions, consideration of alternate uses of idle land and buildings must be part of the public discourse because roughly 350,000 people now live in a City built for 600,000. Economic development initiatives and a continuing need to assist former New Orleanians seeking to return are important facets of the blight discussion.

But even as they take note of the interplay of those broad forces, citizens voice frustration and bitterness over City government's weak record in spurring action by owners of blighted properties.

There have been moves by City officials in recent years to step up enforcement sweeps and blight hearings. Federal grants to the New Orleans Redevelopment Authority, meanwhile, have provided millions of dollars for anti-blight initiatives in a smattering of neighborhoods.

But there is wide acknowledgement that City initiatives to date have produced only halting results.

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<sup>1</sup> [www.forwardneworleans.com](http://www.forwardneworleans.com)

<sup>2</sup> Letter from Shilling to Blight Task Force, April 14, 2010

Neighborhood activists and experts studying the blight issue point to inadequate staffing in the code enforcement division and to poor use of technology, and they see little evidence that City officials are able to track down and get the attention of absentee owners. There appears to be no mechanism for matching up individuals facing code violation charges with nonprofit groups that might be able to bring fresh resources to bear in cleaning up and rebuilding homes.

Tax lien auctions and expropriation procedures that are available to City government or affiliate agencies have proven of limited value in attacking blight because of cost and legal hurdles. Meanwhile, City officials have made little use of code lien auctions that might prove a viable tool in finding new owners and uses for large numbers of derelict properties.

In recent months, a new issue has surfaced that contributes to the blight problem—and fuels more public frustration. Thousands of homeowners who accepted Option 1 rebuilding grants through the state-run (and federally-funded) Road Home program have not fulfilled their legal obligations to rebuild. Some property owners may have misused recovery grant monies, but preliminary findings by some groups indicate that a high percentage of those who haven't rebuilt did not receive enough money through the grant and other sources to complete their projects. A significant number, also, are believed to have been victimized by dishonest contractors, and still more simply didn't possess the expertise to carry out a rebuilding project.

The disappointing record in use of Option 1 rebuilding grants has left large numbers of homes gutted or essentially abandoned, and there is fierce debate about how to remedy that facet of the blight problem.

A roiling public debate over how to curb blight features conflicting impulses. Calls for rapid demolition of rundown structures face objections from preservationists who warn of destroying the stock of historic architecture that contributes to New Orleans' appeal to the world. There are questions, too, about how long government would be able to maintain lots where buildings are razed. Will initiatives like the Lot Next Door program be adequate to ensure upkeep? Will residents embrace or fiercely resist suggestions for converting idle space into public green spaces or other uses? Many neighborhood activists, meanwhile, simply want to see something done. They want visible evidence that City officials can tackle the blight issue in a meaningful and sustained fashion.

## ***Public Comments***

On April 5, 2010, the Blight Task Force jointly with the Housing Task Force hosted a public meeting to hear questions, comments, and concerns from the general public. The Task Force also received public input submitted on the Transition New Orleans website. The themes that emerged from the public comments included:

*Strengthen the code enforcement process with increased inspections, hearings, and code lien auctions*

*Find the appropriate balance between preservation and blight eradication*

*Remediate blighted City and other public properties*

*Use the assistance of volunteers and non-profits*

*Examine the problem of Road Home allocations that were insufficient to rebuild*

*Consider creative new uses for blighted properties*

*Make provision for homeless and special needs persons who presently live in blighted properties*

## Section V: Recommendations

### **A. Key Recommendations**

The Task Force on Blight recommends the following action items as appropriate initiatives for the first 100 days and first six months of the Landrieu administration. They are not listed in any order of priority.

#### Recommendations for the first 100 days:

- (1) Convene a group of health and housing code enforcement personnel, hearing officers, neighborhood representatives, and other relevant participants to initiate discussions and begin the preparation of a policies and procedures manual governing the code enforcement process.
- (2) Prepare a list of “assistive services” to be included with notice of each code violation, and have present at code enforcement hearings the assistive services personnel.
- (3) Establish with the Sheriff’s Office a regular schedule of code lien auctions that will gradually but steadily increase the number of properties offered and the frequency of auctions during the first six months.
- (4) Provide training in the use of Accela technology for health, housing, and environmental code inspectors, and implement follow-up programs to evaluate accountability in the use of such technology in the field.
- (5) Devise a plan and a timetable for the removal of FEMA trailers from inappropriate sites by the end of 2010.
- (6) Provide digital camera capability in the field and direct code enforcement inspectors to take as many photos as necessary to document conditions.
- (7) Consolidate in one location all GIS mapping data identified to date, and assign the responsibility to deliver GIS implementation in accordance with a specific timetable.
- (8) Begin organizing and staffing the code enforcement process from inspections through hearings, recordation of liens, and code lien auctions. Assign specific tasks for each step in the process to specific individuals, but also designate secondary personnel to provide backup when the person primarily responsible cannot perform. Attach timelines to the expected movement of properties through this process.
- (9) Designate a team to work with the Louisiana Recovery Authority in devising a strategy to resolve current difficulties with the Option 1 program. Use case management and counseling services.
- (10) Disseminate information about the City’s adopted policy of “deconstruction,” allowing for the salvage of building materials, together with an Executive Order or Policy Memorandum addressing an implementation strategy to be followed by City officials.
- (11) Review and evaluate demolition procedures. Devise a plan for improvement that consolidates responsibility in one location (subject to all historic district approvals).

- (12) Convene public entities that own blighted property and devise plans and timetables for remediation of blighted public properties.
- (13) Begin renegotiating the Cooperative Endeavor Agreement (CEA) between NORA and the City.
- (14) Identify within each City Council district one or several properties in imminent danger of collapse, and complete their demolition within the first 100 days.
- (15) Solicit from nonprofits, the “green” building community, and neighborhood associations the names of contractors they have used, and make such lists available (without a recommendation as to which is a preferred hire) as part of the “assistive services” program.

Recommendations for the first six months:

- (1) Complete organizing and staffing the code enforcement process from inspections through hearings, recordation of liens, and code lien auctions.
- (2) Extend code enforcement to residential and commercial properties, both occupied and unoccupied.
- (3) Hire private investigator services to identify and locate absentee owners for purposes of delivering notice.
- (4) Seek funding (perhaps with Delgado Community College and the Preservation Resource Center) to implement a skilled trades training program.
- (5) Complete renegotiating the Cooperative Endeavor Agreement (CEA) between NORA and the City.
- (6) Invite Malcolm Meyer to conduct a training session (perhaps for CLE credit) with Law Department attorneys and relevant housing personnel to overcome problems presented by unopened successions.
- (7) Convene the first of regular (quarterly or twice-yearly) advisory group meetings to assure neighborhood input into the code enforcement process.

**B. Discussion of Recommendations**

Early in its deliberations, the Task Force identified two principal strategies for dealing with blight: code enforcement and expropriation. This portion of the Task Force report evaluates code enforcement and expropriation as tools in the fight against blight; discusses valuable input received by Task Force members from a community meeting; assesses a series of additional strategies for consideration by the new Landrieu administration; and sets out a plan for ongoing and follow-up activities.

1. *Code Enforcement*

Code enforcement is a power that exists wholly within the control of the City of New Orleans. State legislation authorizes cities such as New Orleans to establish an administrative hearing process through which hearing officers receive and evaluate evidence of alleged violations involving health,

housing, environmental, and other municipal codes.<sup>3</sup> When the violations are proved in an administrative hearing, the hearing officer can impose fines and order that the violations be corrected. If property owners fail to pay the fines or to make corrections on a timely basis, the City can record its administrative judgment, giving rise to a lien pursuant to which the property can be seized and sold at a code lien auction.

Code enforcement is one of the oldest and potentially most powerful weapons in the municipal arsenal for waging war on blight. An effective system of code enforcement has the capability to process large numbers of deteriorated buildings, which makes it the primary tool for addressing blight problems in New Orleans' post-Katrina landscape. More than any other strategy, code enforcement is “where it’s at” in New Orleans.

According to the Director of Code Enforcement, the City’s administrative hearing process currently handles 12,000 hearings per year—a good start and a positive commentary on the capacity of code enforcement to process thousands of properties per year on a scale responsive to New Orleans’ needs. Task Force members strongly recommended that the administration commit additional resources to code enforcement, sufficient to increase significantly the number of code enforcement hearings held annually so that code enforcement hearings might touch most or all of the estimated 60,000 blighted properties within the first three years of the administration. The Task Force also urges the administration to put in place a system for documenting the outcomes of such hearings, such as the number of properties voluntarily brought into compliance without the imposition of fines; number of properties brought into compliance after a finding of violation; number of properties brought into compliance after imposition of daily fines, amount of fines paid, and the time required to achieve those results; number of properties on which fines went unpaid and liens were recorded; number of properties moved to code lien auctions; number of properties sold and revenues generated through code lien auctions.

The new administration will need some period of months within which to organize and staff its code enforcement office, deciding where within City government to locate these functions and how they should be organized internally. Once these organizational challenges have been met, the administration should issue a strong public policy statement putting the public on notice of its commitment to vigorous code enforcement. The citizens deserve fair warning that code enforcement will be taken very seriously by the Landrieu administration.

Task Force members feel very strongly that the system by which code enforcement is administered should be open to public scrutiny at every stage of the proceedings (both online and in person) and that code enforcement administrators should be held accountable on a regular basis (monthly or quarterly) for the performance and productivity of their personnel and operations. The Task Force recommends that code enforcement administrators impose a set of objective benchmarks on themselves so that the public can monitor and evaluate the progress of code enforcement at every step of the proceedings.

Task Force members recommend that the administration establish priorities (particularly during the “ramp up” period of several months before additional resources have been fully deployed), directing its inspection and code enforcement activities toward those properties most in need of remediation. These priorities should be identified in dialogue with neighborhood associations.

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<sup>3</sup> La. R.S. 13:2575-2576.

Task Force members also agreed on the need for close coordination between the code enforcement programs in City Hall and neighborhood organizations. It's important for code enforcement to be administered in a manner that is responsive to neighborhood needs and informed by the wisdom of neighborhood residents. As one example of how feedback from the neighborhoods can help set appropriate priorities, we note that many residents told the Task Force it is time to move beyond a code enforcement process focused exclusively on vacant and abandoned property and also apply this valuable redevelopment tool to inhabited but substandard properties. The Task Force heartily endorses that view. We encourage the administration to implement a broad-based use of code enforcement that applies to all types of residential and commercial properties and that operates pursuant to written policies and procedures, so residents can read and understand exactly how and where municipal resources are being directed.

Task Force members also emphasized the importance of providing “assistive programs” to facilitate rehabilitation and maintain homeownership. Code enforcement need not be an exclusively punitive process. Code enforcement can provide property owners with an incentive to fix up their properties; assistive programs should be available to help them achieve that desired objective.

In stating the need for a compassionate component to the code enforcement process, Task Force members do not mean to suggest that the enforcement process should be less vigorous or diminished in any way. We envision two separate units—one focused on full enforcement of health, housing, environmental, and other codes; the other focused on counseling, financial assistance, and other supportive services to enhance and enable rehabilitation efforts. An analogy might be drawn between the criminal court judge who presides over a trial and passes sentence, and the social services personnel to which an offender might be referred for counseling and other supportive services. These professionals work in close coordination with each other, but the criminal penalties imposed by the judge provide the incentive for an offender to work diligently and responsibly with the social services unit—a commitment that might not exist without the threat of a penalty. Neighborhoods want to see vigorous enforcement of code requirements, and they want to see generous programs of assistance to improve housing conditions. There is no contradiction in these desires.

*a) The Code Enforcement Process: From Start to Finish*

The state enabling legislation for New Orleans' code enforcement process is found at La. R.S. 13:2575-2576, which establishes an administrative hearing procedure for the enforcement of health, housing, environmental, and other codes. This Task Force report uses the term “code enforcement” to describe and encompass enforcement of all codes—health, housing, environmental, and otherwise. We believe that increased resources will be needed to staff up code enforcement and successfully address the blight problem. We decline to set specific staffing goals, but we urge upon the administration a very substantial increase in resources devoted to the code enforcement process, which Task Force members agreed is currently understaffed.

**Technology:** This Task Force report repeatedly emphasizes the importance of technology as a tool for fostering coordination among public and private actors in the fight against blight. Because technology can do so much to facilitate coordination, we place a high priority on its use as a weapon in the war on blight.

Code inspectors must receive the necessary training to use Accela technology in the field, and all code inspectors must make the necessary commitment to accept and learn the use of this

technology. Not only does the technological system save time and enhance productivity in the field, but it also supports the openness of code enforcement that is so desired by neighborhood organizations. Inspection reports filed by using this technology can be made immediately available online, thereby enabling citizens to monitor the progress of code enforcement within their neighborhoods.

The proper use of technology also directly enhances the City's ability to present an effective case in code enforcement hearings. For example, neighborhood activists complained that code inspectors are restricted in their ability to take photos of dilapidated opportunities: "City inspectors should take photos of all sides of the property, not just the front." One code enforcement expert who observed inspectors in the field recommended in his report that inspectors be equipped with digital cameras and that they be instructed to take as many photos as necessary in order to document possible violations. Apparently, some personnel have been limited to a total of four photos per property; the code enforcement expert properly identified this limitation as counterproductive.

Task Force members supported an emphatic statement in support of technology, which is viewed as key to progress in code enforcement. New Orleans cannot aspire to success in code enforcement without a vigorous commitment to the use of technology among inspection personnel.

**Mapping:** Task Force members expressed an interest in identifying by location as many as possible of the blighted, vacant, abandoned, or otherwise troubled properties that make up the widely quoted number of 60,000 across New Orleans. Task Force members Rita Legrand and Tangee Wall led an effort (assisted by other Task Force members and numerous neighborhood associations) to collect as many as possible of the maps, digital databases, and lists of blighted properties that have been compiled by neighborhood residents across the city. The Task Force recognizes that these materials differed greatly with regard to their methodologies and how they identified "blighted property," but we believe they may provide the new administration with a useful starting point as efforts continue to "map" blight in New Orleans. We also note that a new web-based service for registering blighted properties was identified as a consequence of this informal mapping project:

[www.reportnolablight.com](http://www.reportnolablight.com). The Regional Planning Commission, Historic District Landmarks Commission, and NORA all laid claim to resources in this area. Our Task Force is forwarding to the new administration all of the materials that we have gathered. We also recommend that the administration make further use of volunteer services from among our Task Force members, who are willing to continue serving as a liaison between City Hall and neighborhood associations in the ongoing collection of mapping data.

The bottom line on this mapping discussion was a widely shared belief among Task Force members that all City agencies need to share data freely among themselves and that data must be captured in a form that makes all databases compatible with one another. The Task Force also agreed that this item of business might best be dealt with by a referral to the members of the new administration dealing with technology issues.

**Preparation of Matters for Hearing:** Each code enforcement unit should have a target number of files that are to be prepared for hearing each week or month, based on the number of personnel assigned to that unit. While backup capability may be useful, the preferred practice within each unit should be to designate specific individuals who are responsible for assembling the evidence of code violations (including digital photos); identifying all property owners and assuring that proper notice has been delivered to them before fixing the matter for a hearing; presenting evidence of the alleged violation at the hearing; providing appropriate notice of the outcome to property owners after the

hearing; monitoring compliance with the administrative judgment and recording the judgment if necessary in order to give rise to a lien; preparing the necessary materials to file with the Clerk's office; and providing notice to the Sheriff's office to initiate a code lien auction. One specialized service that may make sense (used in the City of Baltimore) is to hire professional investigators to determine who owns property; Baltimore does not burden its inspectors with that function. Administrators should attach timelines to each step of the process and should periodically evaluate the performance of all code enforcement personnel. The best performance measures should sometimes be based not on volume, but on temporal standards: How long does it take to get things done?

***Hearings:*** Hearing officers should be guided by a policies and procedures manual that counsels them against granting open-ended continuances. All aspects of the hearing process should be standardized to the maximum possible extent so that different hearing officers do not dispense different brands of justice. We recommend convening the hearing officers, code enforcement personnel, and neighborhood representatives in a moderated discussion of the policies and procedures that should be embodied in a program manual.

The program manual should preserve a role for neighborhood representatives to make comments or present their own evidence of possible violations, whether or not the property owner appears and contests the charge. Neighborhood residents need to feel empowered by the hearings and encouraged to participate in the code enforcement process.

Hearing officers should routinely refer to the supportive services unit those property owners who have been found to be in violation. The Task Force also recommends that the administration consider using full-time in-house lawyers rather than contract counsel to conduct administrative hearings. Some Task Force members expressed support for contract counsel because of their perceived "independence" in the adjudicatory process; others described experiences that suggested contract counsel tilt toward the City in their rulings. We all agree, however, that these variations among hearing officers are undesirable and that the adoption of a program manual might foster more evenhanded administration of these code enforcement hearings.

We include mention here of another volunteer opportunity—the enlistment of pro bono counsel as hearing officers. We cite as an example the interest expressed by Caryl Vesey, a lawyer who has a good understanding of municipal law; Vesey indicated his willingness to serve as a hearing officer on a pro bono basis. He is not alone in expressing a willingness to contribute to the City's recovery; we heard from several other lawyers during transition who were willing and able to volunteer their professional services. The administration might solicit pro bono assistance from members of the bar through legal organizations such as the Louis Martinet Society, the New Orleans Bar Association, and the Louisiana State Bar Association.

***Assistive Services:*** Task Force members agreed on the need to identify "assistive services" to which property owners can be referred for counseling, financial assistance, charitable and volunteer support—in short, any programs that might enable them to rehabilitate their properties and remain in ownership of them. The City's Office of Code Enforcement has already prepared a list of such supportive services and programs. Task Force members suggest that an abbreviated list of assistive services be included with each code violation notice sent to property owners, so they will be encouraged to seek out supportive programs. The Task Force also suggests that support personnel be present before, during, and after code enforcement hearings, so they can respond immediately to the needs of property owners involved in such proceedings.

***Code Lien Auctions:*** The Task Force recommends that code enforcement personnel and the Sheriff's Office agree upon a regular schedule for conducting code lien auctions, whenever property owners have been properly noticed, have been found in violation at a code enforcement hearing, and have neglected to make repairs or pay the fines imposed. We recommend a phased implementation of steadily increasing code lien hearings with more modest goals set at the outset (perhaps one auction per month) building toward increased frequency of auctions and more properties offered as procedures become more routine. Notice of the properties to be auctioned should be disseminated as widely as possible in advance of the auction, using not only required notices of publication in the official journal but also developing Internet-based networks with neighborhood organizations, realtors, financial institutions, contractors, developers, nonprofits, faith-based organizations, and other potential purchasers of such properties.

Councilmember Stacy Head has convened numerous meetings and prepared various materials to chart the code-lien auction process through all the steps leading to and following a Sheriff's sale. As a consequence of her advocacy and leadership, the City has now successfully conducted several code lien auctions, demonstrating beyond any question the legal efficacy of this procedure. Those code lien auctions have also demonstrated their revenue-generating potential; each property sold at a code lien auction has produced on average approximately \$8000 in funds for the City (after reimbursement for the expenses of conducting an auction). If we can do five code lien auctions (and we have), then the City can and should do 50 or 500 or more.

***Collection of Fines Via Property Tax Bills:*** When the City chooses not to pursue a code lien auction as an enforcement strategy to collect unpaid fines, delinquent fines should be added to the next year's property tax bill as provided in state law, and the unpaid fines should be collected in that manner. Section 28-54 provides for a dedicated fund into which revenues generated by code enforcement could be deposited in order to make the code enforcement process either partially or wholly self-funded.

*b) Affirmation of Code Enforcement Strategies by Frank Alexander*

On April 5, 2010, Blight Task Force members heard from Frank Alexander, a former Dean of Emory Law School and consultant to the National Vacant Properties Campaign. Dean Alexander's comments were very supportive of the code enforcement strategies discussed in previous Task Force meetings.

Dean Alexander cautioned Task Force members about ambiguities associated with the use of the term "blight." According to his count, blight appears 76 times in different Louisiana statutes, and those usages are far from consistent. He also said that references to blight "confuse the gap between code enforcement and expropriation." He advocated use of a new vocabulary that uses words like "dilapidated" and "deteriorated" or "vacant and abandoned" instead of "blighted."

According to Dean Alexander, New Orleans made limited use of code enforcement before 2004; expropriation was the tool for taking substandard properties. Even before the 2006 constitutional amendments, this was an expensive and time-consuming way to deal with properties that were out of compliance with health, housing, environmental, or other codes. The 2006 constitutional amendments made such uses of expropriation even less desirable.

Dean Alexander characterized code enforcement as "the most important tool in the City's toolbox—not expropriation." He pointed out that code enforcement hearings "can be done in

volume,” and he recommended that the City “ramp up hearings dramatically.” He also suggested that the City should “ramp up code lien auctions and get properties in the hands of new owners.”

Dean Alexander suggested that some consideration be given to increasing the minimum bid at code lien auctions by requiring purchasers to deposit into an escrow account sufficient funds to cover the estimated costs of bringing the property up to code. If the new purchaser failed to make good on code compliance, the escrowed funds could be drawn down by a public entity to complete the work.

## 2. *Expropriation*

Expropriation is a power that exists in the New Orleans Redevelopment Authority (NORA), which is a separate political subdivision of the State of Louisiana. NORA can only exercise its powers of expropriation after an administrative hearing officer has rendered a designation of “blight” on a property. Because NORA is a separate political subdivision governed by its own board, the City does not directly control NORA’s actions. The City of New Orleans does enjoy some influence over NORA because the Mayor appoints members of the NORA Board and because a significant portion of NORA’s budget comes from City Hall. Accordingly, it is extremely important that NORA and the City coordinate their activities; the traditional mechanism for accomplishing such coordination between political subdivisions is a cooperative endeavor agreement (CEA). Additionally, the City of New Orleans should achieve agreement with NORA in advance about the agency’s management of valuable City assets, such as Road Home properties and financial subsidies. Once transferred, the assets of the City will be beyond the direct control of the City unless both parties have committed themselves to a properly drafted CEA that defines the roles and responsibilities of each party and holds them accountable for their performance. Finally, the CEA must also align NORA’s redevelopment strategies with the City’s, so that their resources can be expended in the most effective manner.

NORA’s power of expropriation became more complicated to use after voters approved constitutional amendments in 2006. An effort may be made in the fall 2010 elections to ameliorate some of the adverse consequences of the 2006 amendments. A similar effort failed at the ballot box in 2008, however, so NORA cannot afford to plan its use of expropriation powers in a manner that depends upon a successful outcome in that election.

The Task Force believes that rational strategies for the use of expropriation can be devised even in the current constitutionally limited environment, and the Task Force strongly encourages NORA to make use of such strategies, which are immediately available. Here are some examples.

(1) NORA can use its expropriation powers to take blighted properties that will be needed for a public use and will be held in public ownership for 30 or more years. Examples might include a firehouse, a police substation, a library, or other similar facilities. We encourage NORA and the City to enter into a cooperative endeavor agreement (CEA) through which the parties will identify properties needed for a public use and pursuant to which they will agree to develop and maintain such properties.

(2) NORA can use its expropriation powers to acquire individual blighted properties, repair or demolish them, and offer them for sale at their then-current fair market value to the original owner from whom the property was expropriated (or to an owner’s successors). If the original owner or successors-in-interest decline to buy the property back, NORA can thereafter offer the property for sale to members of the public through a competitive

auction. Task Force members emphasize their belief that this proposed “micro” use of expropriation will make a valuable contribution to the recovery of neighborhoods. Small-scale redevelopment that removes blighted structures from a neighborhood, either by rehabilitating them or by demolition, makes a big-scale difference in the quality of neighborhood life. We encourage NORA and the City to enter into a CEA that establishes clear procedures for identifying and acquiring blighted properties within targeted neighborhoods; and we encourage collaboration with neighborhood representatives in identifying appropriate properties for acquisition by expropriation.

In our March 26, 2010 meeting with NORA Executive Director Joyce Wilkerson, the agency reported having 273 expropriated properties in its portfolio and approximately 1,000 pending expropriation suits.

NORA’s Counsel reported that approximately 70 percent of property owners within the group of 1,000 pending suits were “coming into compliance.” This comment suggested that perhaps NORA was using expropriation as a tool to induce property owners to bring their substandard properties into compliance with health, housing, or environmental codes. When asked, however, whether the expropriation suits would be dismissed upon property owners’ coming into compliance, NORA’s Counsel declined comment. Strategically, NORA should clarify whether its expropriation suits are filed with an expectation of obtaining ownership of the target property or whether they are filed with the intention of encouraging code compliance by property owners. If the latter, City officials should consider in dialogue with NORA representatives whether a code enforcement process is not more efficient and economical than attempting to use expropriation as a code compliance tool.

It also appears that NORA makes demand upon the property owner for payment of NORA’s costs incurred in filing and pursuing an expropriation suit, even when NORA dismisses the suit before an expropriation has been completed. NORA’s ability to collect reimbursements for the cost of an aborted expropriation appears to depend entirely upon whether opposing parties are represented by counsel, because most lawyers defending an expropriation lawsuit would insist that no costs are due when the suit has been withdrawn. Task Force members perceived some inequity in extracting payment of NORA’s costs from underrepresented property owners who (as illustrated by their lack of legal representation) may be among those least able to afford such payments. A responsible public body should be guided in its actions by what the law requires, not by whether an opposing party is well represented by counsel. We also note that if NORA routinely bore its own costs for initiating and then abandoning expropriation proceedings, the agency might have an enhanced economic incentive to evaluate each such proceeding before launching an expropriation. Accordingly, the Task Force recommends that NORA adopt a policy of demanding reimbursement from property owners only when a sound reading of the law provides that NORA is entitled to receive reimbursement of its costs.

Under current constitutional constraints, it does not make sense for NORA to use its powers of expropriation in order to assemble many small parcels of property into a single tract of land targeted for large-scale redevelopment. The agency should abandon any further use of expropriation for such purposes until a renewed effort at constitutional change has either succeeded or failed at the polls. The Task Force also believes that the agency should inventory all of its properties that have been expropriated over the past several years; identify a redevelopment plan for each such property; and plan for the reintroduction of each property back into commerce (which can only be accomplished under current constitutional constraints by first offering the property for repurchase by the original owner, the owner’s heirs, or successors in interest).

***NORA’s Management of “Road Home” Properties:*** NORA also controls under current arrangements another valuable resource—the Road Home properties now held by the Louisiana Land Trust (LLT). These properties generally enjoy good title and can therefore be placed back into commerce without delay. The City and NORA should agree upon strategies for returning these properties to an appropriate use, and again, they should devise these strategies in close collaboration with neighborhood representatives.

According to Ms. Wilkerson, approximately 4,500 LLT properties are available for transfer by NORA. The LLT retains the properties and the responsibility for maintaining them until a purchaser goes to an act of sale and closes on the property. NORA currently has approximately 1,200 LLT properties under purchase agreement. The LLT is responsible for managing any demolitions, and according to NORA, all demolition decisions are submitted through regular City procedures for approval by the requisite historic bodies and demolition officials. NORA advises on such demolition decisions, and neighborhoods are consulted, according to NORA representatives.

NORA also administers the Lot Next Door Program, which allows adjacent property owners who have an active homestead exemption to purchase properties. NORA has also introduced an additional feature, which it calls the Growing Home Program; purchasers obtain property for a reduced price in return for agreeing to beautification measures.

NORA currently conducts a variety of auction programs, some of which impose conditions on the new purchaser and others that do not. The Lakeview Phase 2 auction program, for example, is a pure public auction without conditions, and is generally used in areas that have high market potential. The Gentilly Phase 2 program is directed to bidders who intend to use the property as their primary home and who will agree to initiate construction within one year. NORA also offers some financial subsidies in areas that are moderately stable or that have moderate blight (*e.g.*, Mid-City, Irish Channel). In these areas NORA will sometimes conduct a neighborhood RFP directed to small entrepreneurs. Other areas, such as Pontchartrain Park, are characterized by concentrated development. According to NORA representatives, all of these programs are developed in dialogue with neighborhood representatives. NORA also says that neighborhoods play a role in the evaluation of solicited proposals, but currently, NORA does not invite scrutiny or participation in the process by the Office of Inspector General.

When NORA sells an LLT property, the agency receives \$1,345 to cover its appraisal and administrative costs. According to NORA, all other funds generated by the sale are returned to the state as program income in accordance with the provisions of the HUD-approved use of Disaster CDBG funds. Four years from now, any LLT properties that have not been sold will be transferred to the City of New Orleans.

***NORA’s Participation in Code Lien Auctions:*** NORA can acquire properties as a bidder at code lien auctions. The Task Force suggests that NORA’s participation in such auctions might be as a competitive bidder and that property placed on the auction block should be sold for the highest market price available, not on a preferred basis to the agency.

This principle of “competitive public auction” is in conflict with statutory language added during the 2008 legislative session, granting NORA a statutory right to acquire properties offered for sale at a

code lien auction by paying a minimal amount.<sup>4</sup> (An amendment added during the legislative process protected the right of mortgage holders to bid competitively on the property, but all other parties are excluded from participating in a competitive auction.) This procedure may give the appearance of a “disguised expropriation,” since it empowers NORA to acquire ownership of property—but for an amount that will frequently be considerably less than the “just compensation” required in an outright expropriation. Code lien auctions are a promising source of revenue for the City, and any diminution in sales at the highest market value will diminish revenues for the City. On the other hand, some members of the task force suggest that NORA’s preferred status as a bidder might actually prove to be revenue neutral; so much of NORA’s budget is funded by city revenues that an increase in the purchase price through a competitive auction might ultimately be paid for by the City. We recommend that the City and NORA address in a new or revised cooperative endeavor agreement (CEA) whether NORA should participate in competitive code lien auctions on the same basis as any other bidder or whether NORA should exercise its option to purchase properties on a preferred basis without competition.

The Task Force believes that private purchasers should generally be preferred over public purchasers, since that facilitates the use of private markets to rehabilitate property. A private purchaser who puts up good money at a public auction to take ownership of property will presumably protect that investment by returning the property to commerce, particularly if required to escrow funds in sufficient amounts to cover the costs of achieving code compliance. We may not need to interpose a public entity such as NORA in the middle of that process.

***Frank Alexander’s Comments Regarding the Use of Expropriation:*** Frank Alexander recognized expropriation as an appropriate “tool in the City’s toolbox,” stating that he saw no problems with a “public purpose” taking of property intended to be held in public ownership for a period of 30 years or more (e.g., for use as a park or playground or for a fire station or police substation). He continued, however, by observing that the 2006 constitutional amendments put expropriation “in question for other purposes” and noted that Article 1, Section 4(H) of the Louisiana Constitution erected “a huge barrier to the conveyance of expropriated property to Habitat or any other third party.” NORA’s test case litigation is back before the lower court and is not likely to yield a definitive decision by the Louisiana Supreme Court for another year or two. He also observed that, “We cannot predict what the Supreme Court will say,” and observed that “NORA can’t transfer expropriated properties until these title questions are resolved. He concluded, “It makes no sense for NORA to continue expropriations until the Supreme Court has spoken.”

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<sup>4</sup> Act 791 of 2008, codified at La. R.S. 33:4720.56(19), conferred preferred status on NORA as follows: “To purchase property at a sale conducted pursuant to enforcement of judicial mortgages created in accordance with R.S. 13:2575(C) by tendering a bid equal to or greater than the minimum bid advertised, which bid may be a credit bid consisting of the obligation of the authority to satisfy the bid by payment to the political subdivision holding the lien being enforced in accordance with intergovernmental agreements between the authority and such political subdivision. Notwithstanding the provisions of this Paragraph, a holder of a conventional mortgage on the property may purchase the property by tendering the highest bid.”

Dean Alexander also noted that a proposed constitutional amendment in 2008 failed at the ballot box by a 51-49 margin. NORA will not know until November whether HB 276 will be successful in removing the third-party transfer restrictions or whether it will again be rejected by the voters.

He noted that NORA is considering whether “donations” of expropriated property might be a way around constitutional restrictions on a “sale” or “lease” in the “transfer” of expropriated property. He observed that the proposed strategy of giving away property would exact an economic toll on NORA’s operations and would also need to be tested in the courts.

### **C. Additional Strategies for Consideration**

***Role of Neighborhood Associations:*** In addition to the two legal strategies (code enforcement and expropriation) discussed above, this Task Force also identified an important role for neighborhood associations in the fight against blight. Neighborhood activism in the wake of Katrina has been one of the success stories arising out of that disaster. Task Force members believe that an engaged community of residents can continue contributing to the City’s recovery and renewal, and we believe that City government must recognize and support a partnership with neighborhood associations in the coordinated assault on blight. Accordingly, we have integrated recommendations throughout this report on how City government and neighborhood residents can work together. Volunteer programs can contribute to mapping blight, identifying code violations, and setting priorities in deployment of the City’s anti-blight resources. The City must facilitate public oversight and the accountability of public officials by creating online systems that enable area residents to track the progress of City agencies and personnel in the blight remediation process. Neighborhood associations and City officials not only can—they must—work together in removing blight from the City’s neighborhoods.

***Land Bank:*** Cities such as Flint, Indianapolis, Louisville, and Atlanta have established land banks that specialize in the acquisition of abandoned property, followed by rehabilitation or demolition and ultimately by disposition of the property to a third party. In a City with too many houses for its current population, some program of land banking seems sensible. A land bank offers opportunities to plan for and implement alternate uses of property that might otherwise lie fallow. These alternate uses might include recreational green space for neighborhoods without convenient access to public parks and playgrounds; water retention areas that can assist in storm water runoff and drainage; community gardens or urban farms that can supply fresh food to neighborhoods without convenient access to grocery stores; and other neighborhood amenities to attract new residents. A land bank can also hold properties in perpetuity where there is no sensible strategy for putting that property back into commerce. Oddly sized or oddly located properties such as those in proximity to public rights of way are two examples.

Neighborhood stabilization funds can be used to acquire land bank properties. Some of these properties may also be eligible for “brownfields” designation, which opens access to additional sources of funding. NORA or some other agency should specialize in the maintenance of unwanted properties (what might be called “excess inventory”) until they can be returned to commerce without adverse effects on the marketplace. Expropriation should not be used as a tool to place properties into a land bank, however, because current constitutional constraints will make it impossible to dispose of such properties to a third party until the Supreme Court has rendered a definitive decision or until voters have approved a constitutional amendment to remove the restriction on third-party transfers.

***Merger of Code Enforcement Personnel:*** The Task Force expresses no view at this time on whether health and housing code enforcement personnel should be merged into a single unit. Cost savings might be accomplished through such a merger (although we strongly believe that a thorough cost-benefit analysis should be conducted before any decisions are made based on undocumented assumptions about the economies and efficiencies of a merger). We are also mindful that health code inspections and hearings were maintained on a continuous basis from Katrina to date, while housing code enforcement was suspended for nearly a year. Having two separate units can sometimes be more productive than having a single merged program. The continuity of service by health code enforcement personnel was a successful by-product of having separate divisions. Additionally, it appears that the Accela system has not been universally embraced by housing code enforcement personnel. The Task Force has some concern that any proposed merger of personnel who exhibit disparate capabilities might make it harder to institute programs of training and accountability.

***Option 1 Challenges:*** Many neighborhood associations are troubled by the lack of compliance among Option 1 participants in the Road Home program. These property owners took a financial subsidy with the understanding that they would use it to rehabilitate their flood-damaged properties. Many recipients of Option 1 money (perhaps as many as 20,000) have simply not complied with that obligation. At this point viable enforcement strategies are limited or nonexistent. Accordingly, some neighborhood representatives have suggested that Option 1 recipients be given the opportunity to switch from Option 1 to Option 2, which would turn their property over to public control. This proposal carries with it a certain economic inequity. Nonetheless, this recommended strategy may prove to be a reasonable strategy for extricating property owners and their dilapidated properties from the current complicated situation.

The Task Force recommends that the new administration put together a team of City personnel and neighborhood representatives to negotiate an acceptable solution with the LRA.

***Apartment Registration Program:*** Some cities, such as Los Angeles, require inspection and registration of every dwelling unit on a regular basis, usually about every three years. The Task Force has gathered information about such programs for further consideration by appropriate personnel in the Landrieu administration. (See “A Proposal to Improve Code Enforcement In the City of New Orleans,” Committee for a Better New Orleans.)

We offer no opinion at this time on whether such a program makes sense for New Orleans. We do note, however, that the program imposes significant costs on both the City and on owners of property in New Orleans. Some may say that imposing additional costs on people who own property within the City’s boundaries will diminish the appeal of owning property in New Orleans and enhance the flight of capital to surrounding parishes.

Note also that “rental registration” is essentially a code enforcement program: Code inspections take place every three years. Owners are required to pay a fee for renewal or issuance of an occupancy permit. Task Force members believe that an effective system of code enforcement can achieve the desired objective—properties that are habitable and up to code—without necessarily requiring the implementation of a potentially expensive rental registration program.

It should also be noted that HANO requires periodic code inspections of rental properties participating in the Section 8 program. The City and HANO should enter into a CEA that coordinates their activities into a single inspection process for Section 8 properties.

*A Dialogue About Demolition and Preservation:* Task Force members heard concerns about ruined properties echoed many times by many neighborhood representatives: “It’s been five years. Tear these properties down and charge the owners for the cost.” Task Force members also heard from others who cautioned against a strategy to “eradicate blight by demolition” and who emphasized the need for a case-by-case determination of which properties need to be demolished and which might be restored. Speakers from both camps felt a great deal of passion, and there was considerable potential for conflict between the two points of view. Implicit in their comments was a sense of outrage or “blame” directed at other parties for the unsatisfying circumstances. This interchange between preservationists and demolitionists illuminated a problem common to both camps: their total lack of confidence in the City’s systems for administering demolition requests.

When enforcement systems in City government do not work, that creates potential for demolitionists and preservationists to go at each other’s throats. Two well-motivated constituencies with a common commitment to the well-being of their City blame each other, charging either “a complete lack of progress on demolition of ruined properties” or “rampant destruction of the city’s historic housing stock,” depending on their point of view. In fact, however, the heart of the problem is a poorly administered process for evaluating demolition requests.

Task Force members heard horror stories of demolition requests that disappeared into the bureaucracy, never to be seen again as dilapidated property continued to deteriorate with no meaningful response by the City over a period of years. We also heard concerns expressed by preservationists who feared the “war on blight” would be waged with bulldozers directed against the City’s unprotected historic structures. It is unlikely that City Hall’s lack of response on demolition requests is the product of powerful political manipulation by preservationists; a far more likely explanation is a dysfunctional demolition program within City government. It is also apparent that demolition advocates cannot simply turn the key on a fleet of bulldozers and plow down offending properties; again, they must rely on City Hall to make and implement decisions about which properties will be demolished. Putting into place at City Hall effective systems for evaluating and administering demolition requests would be the first and most fundamental step toward diminishing discord between those who favor conservation of historic structures and those who desperately desire the removal of dilapidated properties from their neighborhoods. City Hall needs to give both communities a well-administered process that is open to public scrutiny, operated in accordance with well-defined guidelines, and subject to accountability controls. It is important to first restore confidence in how City Hall handles its demolition business; then there can be a more meaningful conversation between demolitionists and preservationists—against a backdrop of competent administration rather than in a context of confusion, incompetence, and inappropriately-directed anger.

The Task Force believes that an effective system of code enforcement administered in accordance with existing laws will generally yield an appropriate result with regard to the demolition or conservation of property. Property owners who are cited for a code violation will be highly motivated to evaluate the costs of repair versus the costs of demolition. Property owners who do not respond appropriately to code enforcement orders will be faced with the possible loss of their properties through a code lien auction. New purchasers of such properties can also be expected to evaluate the balance of costs and benefits as between demolition or conservation. The Task Force believes that this cycle of enforcement and individual decision-making by old and new owners of property should be allowed to work before decisions about demolition or conservation are made by public sector authorities.

Obviously, this principle of deference to private sector decision-making does not apply when a property is in “imminent peril” of collapse. Existing laws are adequate to deal with such situations; public health and safety demand vigorous enforcement of these existing laws.

In our meeting with representatives of nonprofit and faith-based organizations, the Task Force heard about “deconstruction” techniques as an alternative to demolition. Municipal law already provides for recycling “all salvageable construction materials” from any demolition to which the City is a party. See Ordinance Calendar No. 21,370 (M.C.S. No. 18,383) dated April 17, 1997. According to a Co-chair of the Sustainable Energy and Environment Task Force, FEMA will pay up to \$30,000 to reimburse the costs of a deconstruction rather than a demolition on relevant properties, and the average cost for deconstruction is \$15,000. She also offered the following observation: “Deconstruction would generally take several weeks longer than the wrecking ball, but considering how these properties have all sat for many years, an extra few weeks wait hardly seems to justify ignoring the law and having to pay the landfill tipping fees, more quickly deplete landfill space, lose the jobs, and throw away the high quality/low cost materials that citizens could use in their homes.” The Task Force recommends deconstruction as an alternative to simple demolition. (See National Trust for Historic Preservation Position on Deconstruction).

***Recycling Properties Into Other Productive Uses:*** Task Force members heard from numerous speakers who were concerned about homelessness and who hoped that the City’s vacant and abandoned properties might be recycled into affordable housing. Others voiced similar concerns and hopes relative to the disabled population. An arts organization asked for use of these properties as creative artist’s spaces: “Give us access—a way to use these properties.” That last strategic suggestion might prove to be a viable overall strategy in response to these various concerns; programs to eradicate blight could yield up properties appropriate for housing the homeless, the disabled, or artists’ studios. Blight remediation can make the properties available for adaptive reuse; programs for the homeless, the disabled, and the creative arts might then make use of the properties for their purposes, but they would need to be assisted by funding.

***Litter and Signs:*** Litter and “bandit signs” on utility poles can be fairly criticized as “blight.” This Task Force recognizes the legitimacy of such concerns while also defining the scope of its recommendations more narrowly, as directed primarily at “blight” caused by property conditions found on vacant lots and in deteriorated or abandoned commercial and residential structures. We urge the administration to address concerns about litter and signs through effective sanitation and litter control programs.

***Blighted Public Properties:*** Task Force members are concerned about “blight” attributable to properties owned by various public entities, including the City of New Orleans and the Orleans Parish School Board. In a city that is demanding change and recovery from the private sector, public bodies should not shirk their own responsibility for addressing blight problems on property within their direct ownership or control. Every public entity in the City of New Orleans should have a strong policy commitment to clean up and maintain their properties and a written plan for addressing these needs. We recommend a group meeting of all such public bodies to devise plans and a rigorous timetable for the remediation of publicly-owned blight.

We also note that some blighted public properties are extraordinarily significant and deserve to be restored. (See Operation Comeback list of Historic Renovations Proposed for First 100 Days). Programs of restoration that demand significant public resources must be implemented with an eye toward equitable distribution among neighborhoods. Accordingly, we recommend a City-wide audit

of significant properties that are held in public ownership followed by an inclusive dialogue among all interested stakeholders: The goal should be to establish an equitable distribution of funds among the City's diverse neighborhoods.

***Economic Development Opportunities:*** A vigorous program of blight remediation carries with it significant potential for economic development. The building community and workers in the skilled trades stand to benefit if more structures are rehabilitated. Educational programs might also play an important role in building economic opportunity by allowing the current generation of crafts workers to pass on their skills to the next generation. New Orleans cannot restore its debilitated housing stock exclusively through an expenditure of public dollars; the private market must be engaged in that effort as well through incentives and a coordinated strategy of public-private redevelopment.

***Energy Efficiency:*** The City's massive rebuilding challenge is also an opportunity to "get it right" with regard to energy efficiency. New Orleans can embrace national best practices and become a national model by making energy efficiency an integral part of its rebuilding strategy. New Orleans' City government needs to partner with the private sector in promoting energy efficiency. The City can do some things for next to nothing, including for example, "Be a voice for best practices." The City should aggressively pursue federal funds that are available for energy efficiency and encourage property owners to make use of tax breaks for the installation of solar and other energy efficient technologies. By improving building codes, the City could contribute to energy efficiency and put the burden on private actors to make improvements. Finally, the most "green" strategy with regard to housing is to preserve and to rehabilitate the existing housing stock rather than demolishing and building entirely new structures; thus, housing conservation policies also contribute to energy efficiency.

***New Strategies in Code Enforcement:*** Task Force members heard calls for an expansion of current code enforcement strategies by moving beyond an exclusive focus on vacant and abandoned structures and citing owners for code violations in occupied properties: "Blight is not just empty houses." City government needs to help tenants living in substandard housing conditions. City government also needs to use code enforcement against commercial structures, not just residential properties. Additionally, when a property owner pleads in code enforcement hearings for more time to fix up the property, the hearing officer should require the owner to execute a signed contract that defines an appropriate timetable and adds penalties if the owner fails to comply with the commitment to fix it up.

Many vacant structures are currently used by the homeless population, whose presence can present a fire hazard and whose interests are adversely impacted by code enforcement programs that result in the destruction of such properties. The Task Force recommends a collaborative program between the City and advocacy groups such as Unity for the Homeless, Ozanam Inn, and others to relocate "squatters" into decent, safe, and sanitary dwellings.

Receivership can be a useful tool, enabling CDC's, nonprofits, and others to intervene and maintain a code-deficient property, thereafter imposing their remedial and maintenance costs as a lien on the property. We recommend an early legal assessment by the Law Department regarding how receivership might be implemented under current law; whether it can be authorized by a code hearing officer as part of the remedy under R.S. 13:2575-2576; and whether additional legislation is needed.

Task Force members also recommended the use of volunteers to strengthen code enforcement capabilities in City government. We have all witnessed the extraordinary post-Katrina contributions from “grassroots” volunteers found in faith-based organizations, community groups, neighborhood associations, and others. Volunteers might play any of several different roles in the code enforcement process. Some could be designated to serve as “neighborhood liaisons” between City personnel and neighborhood residents, setting priorities, identifying derelict properties, and targeting resources where they will do the most good. Some might be trained to identify and report code violations in their neighborhoods. We recommend a “charrette” among neighborhood representatives and code enforcement personnel to design programs for volunteer involvement and support of code enforcement activities.

***“Clean and Board” Program:*** Task Force members heard a presentation by code enforcement personnel from the City of Baltimore. Baltimore’s “Clean and Board” Program initially took an average of nine months from complaint to completion. Currently, a phone call to 311 achieves cleaning and boarding of vacant property in 5-10 days at a cost of \$200 per property, which generates \$3 million a year in revenue. The Baltimore official noted that his City’s row houses may be easier to board up than New Orleans’ typical shotguns, since row houses may only require four boards. We might also question whether a “clean and board” program in New Orleans could be done quite so inexpensively as appears to be the case in Baltimore. The Baltimore official also acknowledged that in order to move the process as quickly as they do, they must accept that a certain number of certified mail notices may not reach property owners; they proceed with “clean and board” activities without confirmation of receipt. They deal with those few owners who come back on them as a cost of doing business.

***Evaluating the Need for New State or Local Legislation:*** Too often in the past, legislative initiatives have been used as an excuse for inaction and as a device for avoiding accountability. Some of the previous legal changes were necessary and proper, and presumably some will be needed in the future. But the Task Force is mindful of occasions when a legislative drafting project brought housing code enforcement hearings to a complete halt for almost an entire year.

Legislative initiatives are an appealing proposition for both legislators and administrators alike, because they give the legislative body an opportunity to “do something” about an urgent public problem; they are also an “escape valve” for administrators, who can avoid accountability for their inaction and non-performance while awaiting “vital” legislative changes. Even worse, sometimes legislative initiatives that were poorly thought out require public bodies to “backtrack” and pass new legislation undoing the damage done by earlier enactments. Perhaps the most vivid example was Amendment 6 of 2006, which added to the State Constitution severe restrictions on the use of expropriation power right at the time when post-Katrina cleanup and redevelopment might have benefited from a less restricted use of expropriation. When legislators attempted to undo that damage two years later, Amendment 6 of 2008 failed at the ballot box.

The Task Force recommends that the administration, the City Council, and NORA coordinate their legislative objectives, both state and local, and that any proposed legislation be carefully evaluated in terms of need, impact, and the potential for delay or unintended consequences before it is introduced.

***Housing Court:*** Some cities have created a special Housing Court to deal with blight. The Task Force does not recommend such a solution for New Orleans. We already enjoy an administrative hearing process that moves more expeditiously than would be the case in full judicial proceedings.

Moving matters into court will guarantee that both sides “lawyer up” and will be likely to delay any measurable improvement “on the ground” in neighborhoods. A Baltimore code enforcement official told Task Force members that whenever their violation notices have to go to court, that’s inevitably been a cause of delay and a commitment of attorney time. He bemoaned their “antiquated laws” that sometimes forced recourse to the courts. Enforcement in the courts should be a strategy of last resort, when all else fails.

***Unopened Successions:*** Some Task Force members (as well as speakers at the community meeting) reported that code enforcement hearings are occasionally impeded by small or unopened successions. We have secured from real estate attorney Malcolm Meyer a brief summary of the recent legislation that he drafted and shepherded through the Legislature, establishing a simplified and expedited procedure for dealing with properties burdened by unopened successions. (See “Drafting Affidavits for Louisiana Small Successions Containing Immovable Property (Act 81 of 2009)” by Malcolm A. Meyer). Judging from the frequency with which this problem was mentioned, this “how-to manual” will be of great value in overcoming obstacles to code enforcement and blight remediation because of problems associated with unopened successions. We recommend that the administration invite Mr. Meyer to conduct a training session for relevant Housing and Law Department personnel on these new procedures.

***Removal of FEMA Trailers:*** Task Force members and speakers at the community meeting expressed their frustration with the continued location of trailers (FEMA and otherwise) in neighborhoods where they do not belong so many years after Katrina. Both Task Force members and neighborhood residents favor the removal of inappropriate trailers, which are impeding recovery in some neighborhoods. The new administration should devise an acceptable strategy that affords trailer residents some reasonable time to relocate, but that resolves this problem during 2010.

***Permit Inspections and Code Violations:*** The Task Force was confronted with a question about how to handle permit applications (e.g., for electrical or plumbing work) without opening the applicant to a cascade of code violation notices. We do not want to create a perverse incentive for property owners to avoid the permitting process because they fear it will lead to inspections that cite them for various code violations.

***Advisory Group Regarding Blight:*** The Task Force has already recommended regular communication and close coordination between code enforcement personnel and neighborhood associations. The City’s use of code enforcement and its implementation of other strategies in the war on blight should be informed by the local knowledge of neighborhood residents, and periodic communication is key in achieving that objective.

Some neighborhood activists have suggested going further and establishing an advisory group to meet periodically with code enforcement personnel—not to serve as a substitute for regular communication with individual neighborhood associations, but to create an additional forum for communication about overall strategies in the fight against blight. This advisory group, which might meet quarterly, would structure a more City-wide dialogue among code enforcement personnel and technical experts, neighborhood representatives, developers, perhaps title insurance companies, and others who may have specialized knowledge or a unique perspective on the blight-eradication process. The Task Force submits this suggestion for consideration.

**D. Follow-up and Ongoing Activities**

As we looked back over the text of this report, we were struck by its repeated use of military metaphors and terminology to describe the “fight against blight” or “war on blight,” the “deployment of resources” and the “strategies” required for “victory” in this “battle” to restore neighborhoods. We believe such language is entirely appropriate to convey the severity and seriousness of blight problems in New Orleans. Medical metaphors are also appropriate: Blight will sap the vitality and life of our City if left unaddressed—a festering sore that will spread its poison among our neighborhoods and lead to their demise unless the City institutes effective treatment programs. The Task Force recommends follow-up work as part of an ongoing treatment program, as described below.

The Blight Task Force Co-Chairs hope to schedule meetings during May and June, 2010 with the newly-arrived Landrieu administration’s personnel to deliver a copy of this Task Force report and brief them on its contents. The co-chairs would return for another meeting approximately 100 days later to discuss progress on the Task Force recommendations and to consider a series of “next steps” in the war on blight.

Also during May and June, the Blight Co-Chairs hope to schedule meetings with each member of the City Council and appropriate members of their staff to deliver a copy of the Task Force report and a briefing on its contents.

## Resources

- “Residents Resource Guide,” City of New Orleans, Office of Code Enforcement, Office of Public Advocacy
- Letter from Shilling to Blight Task Force, April 14, 2010
- “Blight – Sheriff Sale Flow Chart – Vacant Property Only,” Office of City Councilmember Stacy Head
- “A Proposal to Improve Code Enforcement In the City of New Orleans,” Committee for a Better New Orleans
- List of Operation Comeback Historic Restoration Renovations Proposed for First 100 Days (City- and School Board-owned properties)
- National Trust for Historic Preservation Position on Deconstruction
- City ordinance mandating that demolitions to which the City is a party involve salvage (deconstruction) processes: Ordinance No. 18383, Calendar No. 21,370 (April 17, 1997).
- Drafting Affidavits for Louisiana Small Successions Containing Immovable Property (Act 81 of 2009),” Malcolm A. Meyer; with Affidavit of Small Succession