



Senator Jeff Klein &
Senator Jamaal Bailey

Nightmare Neighbors:

*How Badly Maintained
Homes Damage
Neighborhoods*

October 2017

Introduction

The housing and foreclosure crisis of the late 2000's severely impacted many communities around the state, including the City of Mount Vernon. New York State took a number of important steps to help protect communities from the blight that a flood of foreclosed homes caused. One critical first step in curbing the damage was taken in late 2009 when New York imposed on financial companies a clear duty to maintain those properties that they had gained ownership of through a foreclosure. In the years following, a new problem became apparent, as more and more homes that were in the process of foreclosure were being abandoned, leaving them to deteriorate. These properties came to be labeled zombie properties. In 2016 New York imposed a duty on financial companies to maintain homes they were in the process of foreclosing on if they became vacant and abandoned.

This past summer the Staten Island Advance ran a series on vacant, neglected and abandoned properties plaguing that borough¹. While the series used the term zombie property to describe all vacant and abandoned homes, many of the homes described in the series were homes not being foreclosed upon, but instead properties where ownership was not in doubt. The series highlighted the problems created by neglected homes of all stripes. Aware that neglected properties remain an issue for not only Staten Island, but for communities like the City of Mt. Vernon, Senator Jeffrey D. Klein and Senator Jamaal Bailey decided to launch a joint investigation on the problems caused by these "nightmare neighbors." They have sought to determine what kind of properties are nightmare neighbors and what solutions could be used to get these properties cleaned up to preserve the quality of life for our neighborhoods.

Key Findings

- The investigation uncovered foreclosed 21 bank-owned properties in Mt. Vernon, that combined caused \$3.52 million in lost property value to 764 neighboring homes.
- We found ten publicly available zombie properties, which depreciated the value of 396 neighboring homes by a total of \$1.7 million.
- The six abandoned homes identified affected 261 neighboring homes and caused a total of \$1.04 million in lost property values.
- The lowest income neighborhoods of Mt. Vernon, found in zip code 10550, were the most negatively affected, with 58% of the total calculated property value loss affecting homes in that zip code.

¹http://www.silive.com/news/2017/08/zombie_quality_of_life.html
http://www.silive.com/news/2017/07/staten_island_zombie_homes_is.html

Part I: Defining ‘Nightmare Neighbors’

There are several situations that can lead to a property becoming a “nightmare neighbor.” These include foreclosed properties and properties that become abandoned, either because they are being foreclosed upon, or for other reasons.

Bank Owned Through Foreclosure

A bank-owned or real estate-owned (REO) property is a property that has reverted to the mortgage lender after the home fails to sell in a foreclosure auction following a judgement of foreclosure. During the subprime crisis of the late 2000’s the housing market saw a significant slump and many homeowners found themselves incapable of maintaining their mortgages. This period saw a massive increase in the number of bank-owned homes as the number of foreclosures climbed and the number of buyers available dropped, leaving banks holding properties. Unfortunately, many banks failed to maintain their newly owned properties correctly, spreading blight through many neighborhoods.

Spurred by this crisis, New York acted. On December 15, 2009 Governor Paterson signed into law one of the strongest foreclosure protection bills in the nation. Within the legislation, a provision championed by Senator Klein was embedded to amend Chapter 507 of the New York State Real Property Law to protect foreclosed properties in the wake of the subprime foreclosure crisis. The provision, known as the property maintenance requirement, requires that financial institutions that are awarded a judgment of foreclosure be responsible for meeting the property maintenance standards as prescribed by the New York State Property Maintenance Code Chapter Three until ownership transfers through the closing of title in foreclosure. Furthermore, the provision gives municipalities, tenants or boards of managers (with regards to condominiums) the right to enforce the duty to maintain and have a cause of action to recover costs incurred as a result of maintaining the property.

Zombie Properties

Zombie properties are another form of nightmare neighbor. A property is deemed a zombie property when a mortgage provider has initiated the foreclosure process on a home *and* the homeowner has either vacated or abandoned the property. Most important to note about zombie properties is that until a court issues a judgment of foreclosure on the property, the mortgage provider is not the legal owner of the property. In other words, these are properties stuck in a limbo state of the foreclosure process. With no homeowner occupying the home and the mortgage provider not yet the legal owner, these properties often fall into disrepair and become dilapidated eyesores across communities in the state.

In June 2016, Governor Cuomo signed into law new provisions to address these zombie properties. The new law, Chapter 73 of 2016, extended the property maintenance requirement to the time period when the property is vacant and abandoned even prior to filing the foreclosure action, in order to address zombie properties without ownership. This section also allows the Department of Financial Services and municipalities to bring violations against banks for up to \$500 per day per violation for failing to maintain the vacant and abandoned zombie property.

The 2016 chapter also established an online registry maintained by the Department of Financial Services (DFS) for vacant and abandoned property. DFS and municipalities can sue banks for up to \$500 per day per violation for failure to report to the registry. Banks and loan servicers are required to report properties to the registry within 21 business days of when the bank or loan servicer learns or should have learned that the property is vacant and abandoned. Information reported to the registry must include the name, address and contact information of the bank or loan service provider responsible for maintaining the property, whether a foreclosure action has been filed and date that foreclosure was commenced, if applicable, and last known address and contact information of the mortgagor. Amendments to any registry submissions must be made within 30 days after the loan servicer learns or should have learned of the changed information.

Abandoned Properties

Foreclosures are not the only reason why a property could become abandoned. A property that was free and clear can become abandoned because the owners passed away and there were no heirs, or the heirs did not want the property. Individuals may be economically unable to pay for the charges associated with a property like property taxes or utilities. A property may become damaged, leading the occupants to leave. An existing owner may also find themselves unable to find a buyer for their property and find it too expensive to maintain it.

Properties may also become abandoned due to speculative purposes. An investor may purchase a property at a low value expressly for the purposes of selling it later for profit, without any interest in seeing that property become occupied, especially if the value of the land itself, as opposed to the building on it, is what motivated the speculation.

Part II: The Effects of Foreclosed and Abandoned Properties on Communities

Since the subprime mortgage crisis nearly ten years ago, researchers conducted a myriad of studies to measure the effect foreclosed homes have on the value of surrounding homes. A paper published in 2012 by the Center for Responsible Lending cites the study, “The Contagion Effect of Foreclosed Properties,” where the authors Harding et al. estimate that, on average, a foreclosed home reduces the house price value of homes located within a 300-foot radius by 1.3 percent.² Ultimately, they concluded that this results in a depreciation of, on average, \$5,000 per property within the 300- foot radius.

Many of the various studies done to examine the effects of foreclosures on neighboring property values also tackled the issue of what effect having a vacant and abandoned property nearby, regardless of whether that property was being foreclosed upon or not, have. These studies have found that having a nearby vacant and abandoned property has a negative impact on property values. One early influential study found a very significant negative effect on values (a 3.5% loss in value) for properties 250 feet away, but then saw that effect quickly disappear³ as one moved further away. The same study determined that the effects on individual property values of a purely

² Harding, J., Rosenblatt, E., Yao, V. (2008). *The Contagion Effect of Foreclosed Properties*. Journal of Urban Economics, Vol. 66, No. 3, pp. 164-178.

³ Michelbank, Brian (November 2008) , *A Spatial Analysis Of The Impact Of Vacant, Abandoned And Foreclosed Properties*, Office of Community Affairs Federal Reserve Bank of Cleveland, pgs. 15, 21-24.

vacant or abandoned property were very similar in scope to that of a foreclosed property. A more recent study done in Atlanta that examined many of the preceding research on the issue, including the aforementioned study, had a more conservative estimate of a loss of 1.12% of property values to properties within 500 feet of the vacant property⁴.

A decline in property values is not the only problem that vacant homes can have on a neighborhood. A 2014 report done for the National Bureau of Economic Research⁵ using data from Pittsburgh, found an increase of crime of 19% within 250 feet of a vacant property. The report also found a weaker correlation between higher incidences of property crimes and vacant properties. Another concern with vacant properties is fire. A report by FEMA⁶ in 2015 found that in more than half of fires in vacant building, the fire spread to the whole building, something that is true only for 14% of fires in occupied buildings. This report also found that in 11% of fires in vacant properties, the fire spread to neighboring properties. The main cause of fires in vacant building according to FEMA were intentional ones.

Part III: Research and Results

Identifying Bank-Owned Properties in Mt. Vernon

In the fall of 2017, the Office of Senator Klein and Senator Jamaal Bailey conducted a survey of bank-owned properties in Mt. Vernon using the reputable California-based real estate tracking site RealtyTrac.com. According to this website, a total of 52 properties were identified as bank -owned and having been awarded a judgment of foreclosure; thus falling under the obligation laid out in Section 6 of Chapter 507 of the Laws of 2009. The Offices of Senators Klein and Bailey then sought to confirm the ownership of the list of properties retrieved from RealtyTrac.com. To do so, our offices contacted the Office of the Assessor for the City of Mount Vernon, to confirm ownership. Upon going through this process, we confirmed that 21 of these properties were listed as being owned directly by financial institutions.

The Effects of Bank-Owned Properties on Property Values

While the intent of the New York State property maintenance code is to preserve housing stock and guarantee safe and habitable conditions for tenants, house price value conservation and even appreciation is a key positive externality resulting from the code. Homes are, in part, valued by the state of their surrounding community. Therefore, proper maintenance of neighboring homes positively contributes to the state of a home's surrounding community. In other words, homes located in communities with adequately maintained surrounding properties either preserve their value or experience an appreciation in value. Conversely, homes located in dilapidated neighborhoods with, for example, multiple foreclosed homes having accumulated numerous complaints and violations, tend to depreciate.

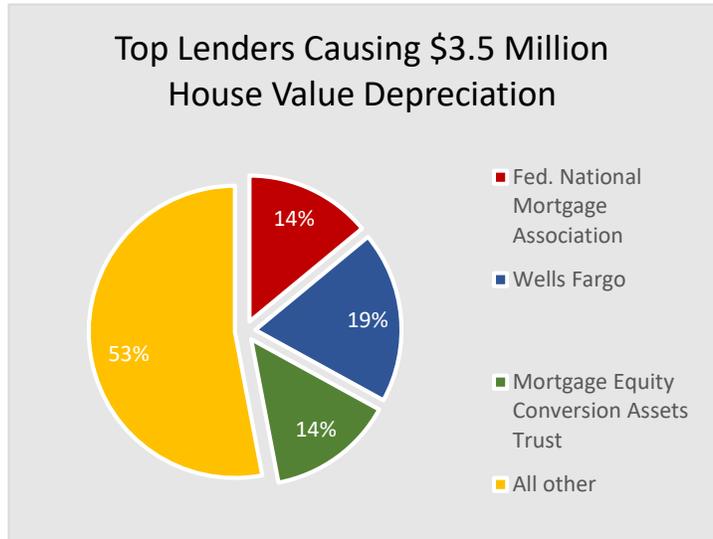
⁴ Immergluck, Dan PhD. (September 1, 2015) *The Cost of Vacant and Blighted Properties in Atlanta: A Conservative Analysis of Service and Spillover Costs. Final Report.* Prepared for the City of Atlanta. Available at: <http://45tkhs2ch4042kf51flakcju.wpengine.netdna-cdn.com/wp-content/uploads/2016/02/Cost-of-Vacant-and-Blighted-Properties-in-Atlanta.pdf>

⁵ Cui, Lin & Randall Walsh (October 2014) *FORECLOSURE, VACANCY AND CRIME. Working Paper 20593* National Bureau Of Economic Research, available at: <http://www.nber.org/papers/w20593.pdf>

⁶ Topical Fire Report Series, Vacant Residential Building Fires (2010-2012), U.S. Department of Homeland Security • U.S. Fire Administration National Fire Data Center , Volume 15, Issue 11 / March 2015, available at <https://www.usfa.fema.gov/downloads/pdf/statistics/v15i11.pdf>

As noted previously, reports have shown that a foreclosed home reduces the house price value of homes located within a 300-foot radius by 1.3 percent.⁷ Ultimately, researchers concluded that this results in a depreciation of, on average, \$5,000 per property within the 300-foot radius.

The Offices of Senators Klein and Bailey conducted research and a data analysis to determine the number of homes whose values have depreciated due to surrounding bank-owned properties. First, all properties were categorized by zip code. Then, each zip code was entered into the American Fact Finder website managed by the United States Census Bureau to extract the number of one-to-four family units located in each zip code. Next, using the site ProximityOne.com, which provides land area information for each zip code using 2010 Census data, the square mileage of each zip code was identified, and then converted into square footage. Then, by dividing the total number of one-to-four family units in the zip code by the total square footage of the zip code, the office researcher was able to determine the number of one-to-four family units per square footage. Lastly, by multiplying the number of one-to-four family units per square footage by the area of a 300-foot radius, it was determined that 764 properties lied within the area of at least one foreclosed home across all of Mt. Vernon.



Ultimately, the research and analysis concluded that properties in Mt. Vernon had depreciated in their price value. **On average, each property has lost approximately \$4,854 in value, and in total, bank-owned homes in Mount Vernon have caused over \$3.52 million in house value depreciation.**

Zip Code	# of Bank-owned Properties	Median Property Value	Depreciation Rate Per Property	Properties in 300-Foot Radius ⁸	Properties Impacted	Depreciation
10550	10	\$300,200	\$3,903	44	444	\$1,734,378
10552	8	\$483,900	\$6,291	25	203	\$1,276,646
10553	3	\$336,100	\$4,369	39	117	\$510,488
TOTAL/AVG	21	\$373,400	\$4,854	36	764	\$3.521 M

Identifying Zombie Properties

In April of this year, according to the zombie registry established under Chapter 73 of the Laws of 2016, which is maintained by DFS, there were 82 registered properties in the City of Mt. Vernon.

⁷ Harding, J., Rosenblatt, E., Yao, V. (2008). *The Contagion Effect of Foreclosed Properties*. Journal of Urban Economics, Vol. 66, No. 3, pp. 164-178.

⁸ Rounded to the nearest property

Of the 82 zombie properties in the registry, 47 are located in zip code 10550, 22 in zip code 10552, and the remaining 13 in zip code 10553. In order to obtain publicly available addresses for zombie properties, the website RealtyTrac was utilized again. According to their database of publicly available info, the Offices of Senators Klein and Bailey were able to identify ten zombie properties in the City of Mt. Vernon as of October 2017.

House Value Depreciation due to Zombie Properties

Using the same rate of depreciation and geographic and demographic information for Mt. Vernon, **investigators found that these ten zombie properties have caused neighboring properties to lose over \$1.7 million in house value depreciation.**

Zip Code	# of Zombie Properties	Median Property Value	Depreciation Rate Per Property	Properties in 300-Foot Radius	Properties Impacted	Depreciation
10550	6	\$300,200	\$3,903	44	267	\$1,040,627
10552	2	\$483,900	\$6,291	25	51	\$319,162
10553	2	\$336,100	\$4,369	39	78	\$340,325
TOTAL/AVG	10	\$373,400	\$4,854	36	396	\$1.7 M

Identifying Abandoned Properties

Senators Klein and Bailey sent their staff out to visit the properties identified through RealtyTrac as possibly being bank-owned to find out if these properties were also abandoned. They found six properties that they could visually identify as being abandoned. Indications of abandonment included boarded up windows and doors, badly secured doors, and signs on the property warning it was a public danger.

The Effects of Abandoned Properties on Property Values

As noted earlier, there have been several studies done on the negative effects of abandoned properties in neighborhoods. These findings indicate that the losses created by vacant properties are very similar to the measures we have been currently using (a presumed loss of 1.3% within 300 feet) to evaluate the losses caused by foreclosed properties. This dovetails the findings that the effects of vacant and abandoned properties are analogous to the effects felt by foreclosed properties mentioned previously. This high similarity led us to decide that the existing methodology for foreclosed properties now bank-owned was appropriate for vacant and abandoned properties as well.

Using this methodology, we determined that 261 properties are negatively affected by the presence of these six abandoned properties. **Investigators found that these six abandoned properties have caused neighboring properties to lose over \$1.04 million in house value depreciation.**

Zip Code	# of abandoned Properties	Median Property Value	Depreciation Rate Per Property	Properties in 300-Foot Radius	Properties Impacted	Depreciation
10550	5	\$300,200	\$3,903	44	222	\$867,189
10552	0	\$483,900	\$6,291	25	0	\$0
10553	1	\$336,100	\$4,369	39	39	\$170,163
TOTAL/AVG	6	\$373,400	\$4,854	36	261	\$1.04 M

Disparate Impact on Low-Income Communities

Time after time, minority communities are the victims of unfair housing practices, while low-income communities are often neglected. Senators Klein and Bailey wanted to examine whether the presence of properties deemed nightmare neighbors have a disproportionate effect on the most vulnerable sections of the Mt. Vernon community. For the purpose of data analysis, the Offices of Senators Klein and Bailey defined a minority community as one comprised of 50 percent or more black and Hispanic residents and a low-income neighborhood was classified as any zip code with a poverty rate greater than 15 percent – the New York State average.⁹ Demographics data for each zip code was retrieved from the American Fact Finder website managed by the United States Census Bureau. The information revealed that all three zip codes within Mt. Vernon are predominantly black and Hispanic. At the same time, only one of the three zip codes, zip code 10550, is considered low-income by our measure.

The investigation found that Mt. Vernon’s low-income communities were impacted much more by these nightmare neighbors than the higher-income portions of the City. Ten of the 21 banks or 47% percent, are located in low-income neighborhoods in Mt. Vernon. These ten foreclosed homes have affected 444 properties in their vicinity. Data analysis reveals that these 444 properties in low-income areas have experienced close to \$1.73 million in house value depreciation out of the total \$3.52 million.

Sixty percent of the zombie properties identified were in the lowest-income community, and the residents of zip code 10550 suffered over \$1 million of the \$1.7 million in property value loss attributed to these zombie properties. Five of the six abandoned properties, or 83%, were also located in zip code 10550, and \$867,000 of the \$1.04 million in lost property value was imposed on its residents. In total, of the \$6.26 million in combined property value depreciation found to be caused by these nightmare neighbors, \$3.64 million, or 58%, was found to come from the low-income neighborhoods of Mt. Vernon.

PART IV: RECOMMENDED SOLUTIONS

1. Klein/Bailey Nightmare Neighbor Taskforce

Senators Klein and Bailey believe it is necessary to create the Mt. Vernon Nightmare Neighbor Taskforce. As staff examined those properties identified through RealtyTrac by driving around Mt. Vernon, they realized that there may be abandoned properties that are not reported on websites such as RealtyTrac or to local governments. The truth is that the best source for information on

⁹ New York State poverty rate found: United State Census Bureau. (2013). *New York*. United States Department of Commerce. Retrieved from <http://quickfacts.census.gov/qfd/states/36000.html>

which properties constitute nightmare neighbors are the members of the community themselves. This is why the Senators want to give community members a way to identify those foreclosed and vacant and abandoned properties that are undermining their neighborhoods. As the senators prepare to introduce legislation to have the state track bank owned properties and abandoned properties, Senators Klein and Bailey will be starting a taskforce now to track Mt. Vernon abandoned properties based on information provided by the community. Mt. Vernon constituents can call into either of our offices to report an abandoned property. Both offices will identify the owner, remind them of the duty to maintain under New York State law and work to clean up each property. If that property is not cleaned up, the offices will work with the Mayor of Mt. Vernon and his administration to appropriately fine those responsible for maintenance and remediate the property and seek reimbursements.

2. Good Neighbor Legislation

Senators Klein and Bailey believe that it is necessary to take further legislative steps that will ensure that the duty to maintain that is now established law can be enforced effectively. These steps include expanding the scope of the current DFS registry to include properties covered by the 2009 duty to enforce law and establishing penalties for entities that fail to adequately maintain properties. In addition, the senators want to ensure that DFS will be actively inspecting properties to ensure the law is being followed and will propose to provide DFS with the resources to do so.

Expanding the Registry

First, to address the problem of local governments being able to track the ownership of bank-owned properties after a judgment of foreclosure has been entered, we propose expanding the existing DFS registry under RPAPL 1310 to also include all bank-owned properties post-foreclosure in which a duty to maintain attaches. Thus, the DFS registry would contain all vacant and abandoned properties in which the bank has the duty to maintain, both prior to the judgment of foreclosure and after the judgement of foreclosure before the bank sells the property.

As provided under the 2016 law, all registry information would be maintained confidentially by DFS with public officials allowed to access the registry from DFS. This would place all vacant and abandoned properties and all bank-owned properties in one central location for localities and DFS to track. In similar fashion to the 2016 registry provisions, banks would be required to report to the registry all bank owned properties upon which a judgment of foreclosure has been entered within 21 days of the bank's duty to maintain the property.

The information submitted to the registry for bank-owned properties would include the name, address and contact information of the lender or responsible loan servicer, and the date the judgment of foreclosure was entered. In addition, banks would be required to report to the registry the date that the property was deemed vacant and abandoned or the date that the bank's duty to maintain commenced. The registry information for banks and the loan service provider must also include the names of all officers of the corporation who are eligible to receive service of process. Finally, any changed information must be updated within 30 days of the bank or loan servicer having learned or should have learned of the changed information.

New Penalties

Second, to enhance the ability to enforce the duty to maintain for bank-owned properties, this legislation would add monetary fines under the 2009 law for failure of banks to maintain the vacant and abandoned property once the judgment of foreclosure is entered. Currently, a municipality can only bring a lawsuit against the bank for failure to maintain in which the municipality simply receives costs incurred for the municipality maintaining the property. Under this bill, municipalities and DFS can bring fines of \$500 per day per violation for the bank's failure to maintain the property post-foreclosure or for failure to report the bank-owned property to the registry. This penalty structure is similar to the fines imposed for failure by the banks to maintain the zombie properties prior to foreclosure under the 2016 law.

Requiring On-Site DFS Inspections & State Funding for Enforcement

Third, to improve the State's ability to ensure that institutions are fulfilling their duty to maintain bank-owned and zombie properties, this proposal will advocate for \$5 million to have DFS and localities hire code enforcement officers to track vacant and abandoned properties and monitor the bank's compliance with the 2009 and 2016 laws. The money could also be used to hire attorneys to bring enforcement actions and fines against the banks for lack of compliance.

Further, this proposal supports enhancing enforcement of the 2009 and 2016 laws by requiring DFS to perform periodic on-site inspections of each property listed in the registry. DFS would be required to perform an initial inspection of each property within four months of the property being deemed vacant and abandoned, with DFS required to re-inspect the property every six months thereafter, until the bank no longer owns the property and its duty to maintain the property has ceased. For any bank-owned properties that are not vacant and abandoned (e.g. tenant living at property), the DFS initial inspection must be performed within four months of the property being submitted to the registry by the bank, and every six months thereafter until the bank no longer owns the property.

Conclusion

In the last six years New York has taken some important steps towards ensuring that financial institutions take responsibility for maintaining properties that they are foreclosing on and have become vacant or abandoned and properties they have come to own due to a judgement of foreclosure. Unfortunately, while the laws passed in 2009 and 2016 have extended the duty to maintain, municipalities like Mt. Vernon continue to suffer when financial institutions fail to follow their responsibilities under these laws. Senators Jeffrey Klein and Jamaal Bailey decided to examine the toll these properties have on communities in Mt. Vernon. Their investigators found instances of houses identified as bank owned, zombie or abandoned that are in a state of disrepair. The senator's offices estimate that the 21 properties identified in the City of Mt. Vernon as being owned by banks or by limited liability corporations depress the value of neighboring properties by a total of \$3.5 million, the ten zombie properties identified in Mt. Vernon lower property values by an additional \$1.7 million, and six abandoned properties caused an additional \$1 million loss. In order to better enforce these existing laws, Senators Klein and Bailey propose to change the law to include bank-owned properties into the new registry of zombie properties so that DFS and

localities can keep track of these properties. They also want to expand penalties for the failure to maintain and create a schedule of inspections along with additional resources so the Department of Financial Services (DFS) can more effectively enforce the law. Finally, they will establish the Nightmare Neighbor Taskforce in Mt. Vernon, to allow residents to identify vacant and abandoned properties. This will help to ensure that those responsible are made aware of their duty to maintain and that local authorities will be informed if those responsible fail to do their duty.

Photos of Nightmare Neighbors:

