Contents

Foreword xiii
Dwight Merriam

Introduction xvii
Alan Mallach

Chapter 1
The Power of Local Government to Address Problem-Property Issues 1
C. Tyler Mulligan

I. Introduction 1

II. Local Government Authority to Act 2
   A. Delegation of Authority to Local Governments 2
   B. Constitutional Protections for Owners 5
      1. Due Process 5
      2. Equal Protection 7

III. The Continuum of Local Government Powers to Address Problem Properties 8
   A. Local Government Exercise of Eminent Domain 9
      1. Government Facilities 11
      2. Urban Redevelopment and Low-Income Housing 12
      3. Economic Development 14
   B. Local Government Police Power and Regulatory Activities 16
      1. Nuisance Abatement 18
      2. Code Enforcement 20
   C. Local Government Development Activities through Voluntary Exchanges 25
      1. Direct Development by Local Government 27
      2. Local Government Participation in Private Development Projects 32
Chapter 2
Creating the Framework in Local Government for Action on Problem Properties 41
Karen Black

I. Introduction: Understanding the State Legal Context 41
   A. The Basis of Local Government Legal Authority 42
   B. Traditional Legal Tools 45

II. Emerging Frameworks and Legal Tools 46
   A. Requirements That Owners Maintain Property to Specific Standards 46
      1. The Affirmative Responsibility of Owners to Maintain and Care for Their Properties 46
      2. Using Data to Further Strategic Code Enforcement 47
      3. Quality-of-Life Ticketing 48
   B. Tools to Identify and Motivate Property Owners 49
      1. Registration and Licensing 49

III. Making Access to Discretionary Services Conditional on Compliance with Codes and Tax Obligations 50
   A. Moving Properties out of Ownership Limbo 50
   B. Establishing Personal Owner Liability 51
   C. Assistance to Low- and Moderate-Income Property Owners 53
      1. Home Repair Grant Programs 53
      2. Home Improvement Loan Programs 54
   D. Receivership and Nuisance Abatement 55
   E. Using Existing Tools to Transfer Properties to Responsible New Owners 57
      1. Using Tax Foreclosure to Sell Tax-Delinquent Property to a Responsible New Owner 57
      2. Eminent Domain 59

IV. Developing Local Policies 60
   A. Engaging the Community: Building Support for Action on Problem Properties 60
   B. Gathering Information 62
   C. Bringing Stakeholders Together: Creating a Shared Action Plan 63

V. A Pennsylvania Case Study 64
   A. Pennsylvania Modernized Its State Laws to Expand Authority to Address Problem Properties 64


5. In 2013, Pennsylvania Authorized the Creation of Land Banks 68

6. In 2016, the State Strengthened Its Law Requiring Purchasers to Resolve Violations within 12 Months 69

B. Local Governments Are Using Pennsylvania State Laws to Address Problem Properties in Innovative and Effective Ways 69

1. Philadelphia’s Doors and Windows Program Used Act 90 Powers to Target Problem Properties and Lowered Crime, Increased Property Values, and Raised Tax Revenue 70

2. Allentown Took the Lead in Implementing Quality-of-Life Ticketing and Sweeps 71

3. Schuylkill County Established Eligibility Requirements for Tax Sale Bidders 72

4. Johnstown Denies Permits to Owners with Serious Code Violations 72

5. Wilkinsburg Opens Probate to Take Vacant Properties out of Ownership Limbo 73

6. Philadelphia Is Making Significant Investments in Home Repair Grant and Loan Programs for Homeowners 73

Chapter 3
Codes and Code Enforcement:
The Basic Framework for Property Regulation 75
Wade Beltramo

I. Introduction: The Scope of Code Enforcement Powers 75

II. Public Nuisance Law: The Precursor of Codes 76

III. Code Enforcement: Property Maintenance Standards 80
    A. Property Maintenance Codes 80
        1. Applicability of Property Maintenance Codes 82
        2. Regulation of Dangerous Structures 83
        3. Vacant Buildings 85
        4. Regulation of Specific Property Conditions 86
    B. Fire Codes 89
Chapter 4
Addressing Problem Rental Housing  
Alan Mallach

I. Introduction: The Dynamics of the American Rental Housing Sector  123

II. The Framework of Rental Regulation  127
   A. Complaint-Driven Inspection  129
   B. The Structure of Proactive Rental Regulation  130
   C. Inspection of Rental Properties  134
   D. Fees  139
   E. Potential Pitfalls of Rental Licensing  141
      1. Use of Licensing to Enforce Inappropriate or Questionable Occupancy Standards  142
Chapter 5
Understanding and Dealing with Vacant and Abandoned Properties 163
Alan Mallach

I. Introduction 163

II. Understanding Vacant Properties 165
A. Why Are Vacant Properties a Problem? 165
B. What Factors Trigger Problem Vacancies? 169
   1. Problem Vacancies Are Fundamentally a Problem of Economics 169
   2. Vacant Property Problems Are Often Exacerbated by Legal Systems and Public Policies 172

III. Defining, Identifying, and Tracking Vacant Properties: The Role of Vacant Property Registration 174
A. Defining Vacant and Abandoned Properties 174
B. Finding Vacant Properties 177
C. Vacant Property Registration Ordinances 179

IV. Getting the Owner’s Attention: Motivating Owners to Restore Vacant Properties to Productive Use 182
A. Financial Penalties for Vacant Properties 183
B. Potential Loss of the Property 186

V. Hunting Zombies: Dealing with Vacant Properties in Foreclosure 190

VI. Closing Note 196
Chapter 6
Controlling, Acquiring, and Disposing of Vacant Properties  199
James J. Kelly, Jr.

I. Introduction  199
II. Three Types of Solutions: Repairs, Receivership Sales, and Tax Foreclosure  202
   A. Direct Abatement of Nuisances by Government  203
   B. Vacant Building Receivership and Related Remedies  209
   C. Tax Foreclosure  219
III. Disposition of Publicly Acquired Vacant Properties  225
   A. Conventional Municipal Property Disposition  225
   B. Strategic Disposition within the Local Government Framework  229
   C. Disposition through Land Banks  232

Chapter 7
Land Banks and Land Banking  239
Frank S. Alexander

I. Introduction: The Nature of a Land Bank  239
II. The Evolution of Land Banks  241
   A. The First Generation: St. Louis, Cleveland, Louisville, Atlanta  243
   B. The Second Generation: Genesee County, Michigan; and Ohio  245
   C. The Third Generation of State Land Bank Statutes  248
   D. Land Banking under Local Home Rule Authority  249
   E. Land Banks and Land Banking: Variations on the Theme  250
III. Additional Tools and Alternatives  251
   A. Land Banks as Regional Approaches  252
   B. Land Banks as Depositories  253
   C. Land Banks as Development Partners  254
   D. Land Banks as Natural Disaster Responses  255
IV. Creating Essential Powers for Land Banks  257
   A. Property Acquisition  258
   B. Property Management  260
   C. Property Disposition  261
Chapter 8
Brownfields: Dealing with Environmentally Contaminated Properties  287
Leah Yasenchak

I. The Value of Brownfield Remediation  287

II. Brownfields Redevelopment  289
A. Brownfields Inventories  291
B. Moving Forward with Brownfields Redevelopment  293
   1. Planning and Community Engagement  293
   2. The Brownfields Redevelopment Team  294

III. The Legal Framework for Brownfields Redevelopment  297
A. The Federal Legal Framework  297
B. The State Legal Framework  299

IV. The Three-Phase Remediation Process under the Legal Framework  303

V. CERCLA Liability  307
A. Basic Liability Standards  307
B. The All Appropriate Inquiries Process  310

VI. Brownfields Financing Programs  312

VII. Conclusion  316
Chapter 9  319  
Exercising the Power to Demolish Properties  319  
Alan Mallach

I. Introduction  319
II. The Legal Basis for Demolition  320
III. Demolition as a Public Policy Issue  323
   A. Demolition as a Response to Market Weakness  325
   B. The Social and Economic Cost of Vacant Properties  328
   C. Demolition as Impact Mitigation  330
   D. Making Demolition Strategic  331
IV. Managing the Demolition Strategy  338
   A. Managing the Demolition Pipeline  338
   B. Deconstruction and Material Sale Opportunities  341
   C. Cost Recovery  343

Chapter 10  347  
Greening Strategies: Nondevelopment Reuse Options for Vacant Properties  347  
Amber Knee and Bob Grossmann

I. Introduction: Vacant Land and Its Challenges  347
II. Which Vacant Properties Are Appropriate for Green Reuse?  349
III. The Menu of Green Reuse Options  351
   A. Interim Landscape Treatments: The Philadelphia LandCare Program  351
   B. Community Gardens  354
   C. Orchards and Tree Farms  355
   D. PHS Pop Up Gardens  356
   E. Training and Employment Opportunities  357
   F. Stormwater Management and Green Infrastructure Solutions  358
   G. Parks and Other Green Spaces  362
   H. Side Yard Programs  364
   I. Phytotechnologies and Productive Landscapes  366
IV. Identifying and Engaging Users  369
V. Structuring Sound Sale and Lease Agreements 372
   A. Philadelphia LandCare Program 373
   B. Genesee County Land Bank Programs 374
   C. City of Pittsburgh Programs 376
   D. City of Baltimore Programs 378
   E. Working with Land Trusts: The Challenge of Creating Long-term Green Spaces 379

VI. Conclusion 381
   Case Study: Liberty Lands 383
   Case Study: New Orleans Redevelopment Authority 387

About the Authors and Editors 389
Table of Cases 395