

Foreword

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This book, *Vacant and Problem Properties*, pulls us right into the center of the interplay of planning and law. It is a book for lawyers, planners, public officials, housing advocates, real estate professionals, and public policy advocates. The authors boldly set out to cover a broad landscape and succeed. Here you will find an assessment of the problems of vacant and distressed properties, the many actions that can be taken to bring these deteriorating assets back into use, and how to write defensible and effective local ordinances and regulations. There is no other book like this, and it represents what the Section of State and Local Government Law has done best in its publishing efforts—melding solid, factual content and scholarship with practical advice that can be put to work at once to solve real-world problems.

Vacant and Problem Properties causes me, as it will you, to consider our ethical and moral responsibilities, to focus on what is most important in our work as planners, and to renew our commitment to the rule of law as lawyers. It is also a book of hope. It provides us with the guidance we need to see what is possible, to appreciate that many of the difficulties can be solved, and to understand that we are in no way helpless.

Before turning to the work at hand—telling you what you will get from this remarkable and timely book—let me share the experience I had in reading the final draft as a peer reviewer and why this book so resonated with me, as I know it will with you. I was delighted to be asked to write this foreword.

There are two lessons I have learned from a lifetime of work in planning law. This book is a good illustration of those lessons in practice.

First, planning and public intervention in whatever form are most needed and work best when there is market failure. Problem properties, whether vacant or occupied, are ones that are visibly neglected or used inappropriately, as with overcrowding, or underutilized because of exclusionary definitions of “family.” These problem properties may threaten the life and safety of the occupants and neighbors. They damage our neighborhoods, physically and socially.

An important footnote to the consideration of vacant properties is that they may be perfectly sound and well-maintained but just vacant. South Florida and Manhattan are good examples of areas where vacant residential units serve only as ersatz bank vaults. The lack of activity, a “ghost town” feel, in these places is startling and problematic. We might add to this class of “vacant” properties the neighborhoods stripped of their social fabric by whole house short-term rentals. Such is the concern in the Garden District of New Orleans.

A recent report from the Lincoln Institute, *The Empty House Next Door*,¹ authored by Alan Mallach, a coauthor and coeditor of this book, describes in detail the extent of the problem. This chart from that book says it all: there is a constant high number of nonseasonal vacant units even after economic recovery and at a time of increased housing demand. Something is wrong. Why aren’t we down to the 2005 level or lower?

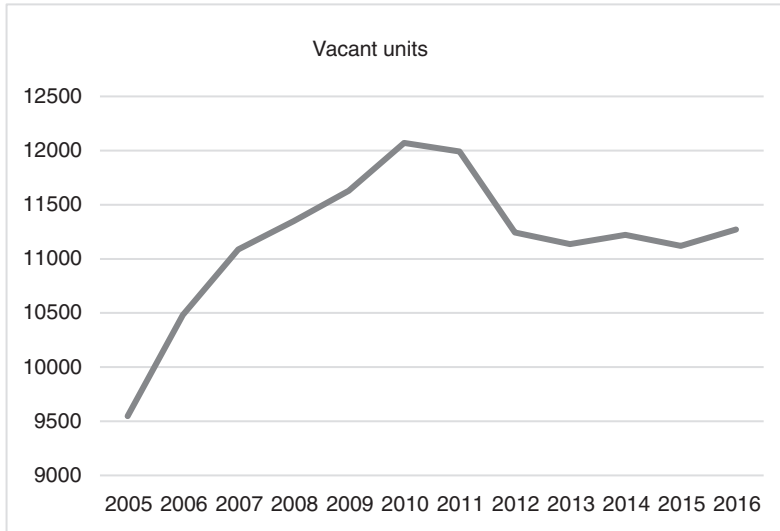
And those seasonal vacancies? They were up more than 50 percent between 2005 and 2016 from 3.7 to 5.8 million units.

These numbers are clear evidence of market failure, most recently brought on by the Great Recession but lingering on in the recovery. They are a call to action.

Planning is unique among the professions in being focused on giving voice to those who have no voice; to those people who, for whatever reason, cannot fully participate in the political and public decision-making process and, perhaps more importantly,

1. ALAN MALLACH, *THE EMPTY HOUSE NEXT DOOR: UNDERSTANDING AND REDUCING VACANCY AND HYPERVACANCY IN THE UNITED STATES*, <https://www.lincolnst.edu/sites/default/files/pubfiles/empty-house-next-door-full.pdf>.

Figure F.1. Total Nonseasonal Vacant Units in the United States, 2005–16 (in thousands)



Credit: Created by Alan Mallach with data from the U.S. Census Bureau. From Alan Mallach, *The Empty House Next Door: Understanding and Reducing Vacancy and Hypervacancy in the United States*. © 2018 Lincoln Institute of Land Policy. Used with permission.

who don't live in our communities but would benefit by having an opportunity to live there; and to generations not yet born. This is the essence of the message from Paul Davidoff in his writings and practice in advocacy planning.

When it comes to dealing with vacant and problem properties, it is patently obvious that the market has failed; that many of the people directly affected are disenfranchised; and that we have a moral obligation to plan, regulate, and provide sufficient resources to remediate the adverse conditions. Vacant and problem properties present us with the most serious of life safety and quality-of-life issues. Vacant and problem properties kill, injure, and irreparably crush the human spirit. *Vacant and Problem Properties* is a guide that all stakeholders can use to intervene in this time of market failure, remediate the damage done, and minimize the potential for future problems.

The second lesson I have learned and that *Vacant and Problem Properties* illustrates so well is that to be effective we must orchestrate programs, plans, and regulatory strategies. There is no Spandex™ one-size-fits-all solution. Orchestration is key. Ludwig van Beethoven's Symphony No. 9 was scored for two flutes, piccolo, two oboes, two clarinets, two bassoons, contrabassoon, four horns, two trumpets, three trombones, tympani, bass drum, triangle, cymbals, violins, violas, cellos, and double basses. He used more instruments and color in his this symphony than Mozart did in his orchestrations and truly opened the door to romantic symphonic music, which was followed in the 19th century by Mahler, among others, who used even more instruments.

Beethoven's genius, in part, was his recognition that more instruments, properly orchestrated, could make great music.

So too with these housing issues that have such complexity of economics, geography, and property rights. *Vacant and Problem Properties* in its 10 chapters not only provides the background we need to understand the issues but also addresses the authority to plan and regulate, offers strategies for transactions in problem properties, teaches us about land banks, tells how to deal with brownfields, discusses demolition strategies, and offers "green" nondevelopment reuse strategies. Alan Mallach in the introduction provides more detail, but the point here is this: *Vacant and Problem Properties* gives us what we need to orchestrate the attack on this seemingly intractable, but ultimately solvable, problem of the decade. Read the book and be ready for the work ahead.