[Misconceptions About Vacant Property Registries](https://www.greaterohio.org/blog/2018/9/17/the-truths-and-myths-about-vacant-property-registries)

Recently, one of GOPC’s partners asked for information regarding Vacant Property Registration Ordinances and how they can help address the issues of long-term vacancy and blight. The information below provides the a variety of facts and myths about this tool.

## **What is a VPRO?**

Unoccupied buildings with the potential to deteriorate present local governments with high social and economic costs. Vacant Property Registration Ordinances (VPROs) seek to address the high rates of vacancy that have plagued many municipalities since the foreclosure crisis.

Vacant Property Registration Ordinances (VPROs) have three main objectives:

* Ensure that owners of vacant properties are known to the city and other interested parties can be reached if necessary
* Ensure owners of vacant properties are aware of their obligations of ownership under relevant city codes and regulations[[1]](#footnote-1)
* Ensure owners meet a minimum standard of maintenance of their properties[[2]](#footnote-2)

## **Benefits of a VPRO**

### SELF-SUSTAINING PROGRAM

Funds generated through the Registry typically cover the costs of staff needed to properly staff enforcement of the Registry; in some cities (including small legacy cities) the fees generated are sufficient enough to fund 2+ code enforcement positions. For example, in Youngstown, it was estimated that increased compliance with vacant and rental registration could generate $739,920 in annual revenue – enough to support hiring several employees to manage the programs.[1][[3]](#footnote-3)

### INCREASED SAFETY FOR FIRST RESPONDERS

In a fire or other emergency situation, first responders and emergency personnel are kept safer when they know if a building is vacant and the condition of the building’s roof and interior. In Worcester, MA, known vacant industrial buildings (such as old textile mills) are included on the registry and display a large red “X” affixed to the side of the building to warn first responders to not enter or enter with caution. Research by the National Fire Protection Agency reports that vacant building fires cause a disproportionate share of firefighter injuries.[2][[4]](#footnote-4)

### PROTECTS PROPERTY OWNERS WHO MAINTAIN THEIR PROPERTIES

Owners who keep their properties in a state of good repair and make good-faith efforts to find occupants for their properties may pay a fee to register their building[[5]](#footnote-5), but that fee is used to aggressively pursue property owners who are not code compliant. Blight associated with numerous code violations has a negative externality on the health of the surrounding neighborhood. Research by GOPC and others has confirmed vacant homes, especially those that are left to deteriorate, greatly reduce the value of surrounding properties. VPROs are a proven strategy in reducing the number of vacant properties and encourage a healthier real estate market, which benefits everyone.

## **Common Misconceptions about VPROs**

### A VACANT PROPERTY REGISTRY IS FINANCIALLY ONEROUS

A modest fee is likely not going to change the cost-benefit analysis for a property owner, whether it is a local individual or part of a larger portfolio. Additionally, charging fees only when there is non-compliance with maintenance gives property owners an opportunity to never pay a fee even if their property remains vacant for a long period of time.[[6]](#footnote-6) And ultimately, even with no fee, the vacant property registry still provides a benefit of creating a record of what properties are vacant, where they are, and who owns them.[[7]](#footnote-7)

### VPROs DISCOURAGE FIRMS FROM INVESTING AND LENDING

Some opponents of VPROs argue they raise the costs of property ownership as well as the costs of servicing delinquent loans and foreclosed properties.

The truth is, the costs imposed by a VPRO represent the true costs of owning and managing a vacant property. A VPRO shifts the costs of vacant properties away from neighborhoods and local governments and onto the appropriate private parties. By requiring the cost of a vacant property to be considered during underwriting decisions, a VPRO encourages responsible investment and lending while discouraging irresponsible investment and speculation.[[8]](#footnote-8)

### VPROs TRAMPLE PRIVATE PROPERTY RIGHTS

If an owner of a vacant property finds $300 too burdensome to pay, it’s unlikely they will invest the $30,000 required to redo their roof and mechanical systems. Meanwhile, as their vacant property deteriorates, the property values of neighboring properties will decline and the neighborhood’s real estate market suffers.

The fact is, many more owners’ property rights are infringed upon by a blighted and deteriorating building, than the property rights of the single owner of the vacant property.

Additionally, if the property owner is making good faith efforts to bring properties into code and/or to be occupied the city usually acknowledges those efforts and will work with the owner.[[9]](#footnote-9)

### WHAT ABOUT THOSE WHO DON’T REGISTER?

Non-compliance with the Registry can have legal ramifications, mainly increased fines that the city can eventually foreclose upon[[10]](#footnote-10). After action is taken against one non-compliant owner, other owners usually fall in line.

## **Structuring a VPRO to a Community’s Needs**

Registration: Some cities require registration after a property has been vacant for a determined amount of time, while others require them to be registered after a foreclosure (the latter being aimed at mortgage lenders).[[11]](#footnote-11)

Fees: Some cities impose fees that escalate every year a property remains vacant and require property owners to provide plans for renovation or demolition (i.e. they must have a plan for the building). Other cities impose a small flat fee or no fee at all[[12]](#footnote-12) but impose penalties when property owners do not comply with basic maintenance rules.

Type of Property: Can apply only to residential, commercial or industrial or all three types of properties. Typically, commercial and industrial properties are treated the same as residential properties in VPROs.

### GOOD PRACTICES

For legacy cities dealing with long term vacancy, the model of requiring property registration after 45 days of being vacant is a good practice, since their vacancy issues go well beyond new foreclosures. The best systems are likely a combination of both: requiring registration at the time of foreclosure and for buildings that are vacant for 45+ days.[[13]](#footnote-13)

The fee structure is most likely the most critical component of a successful VPRO. The fee is the incentive for property owners to rehabilitate their properties.[[14]](#footnote-14) Typically, the fee ranges from $0 to over $600 per year. Some cities offer an option to waive the fee if the property owner provides plans for scheduled rehabilitating or demolition. Other cities offer a rebate on the fees a property owner pays once the vacant property is put back to use.

The fee structure is a fine line. In weak markets, the fee may cause property owners who are at least minimally paying taxes and maintain their properties to end up abandoning them.[[15]](#footnote-15)

[**The Center for Community Progress**](https://www.communityprogress.net/tool-1--vacant-property-registration-ordinances--pages-257.php) suggests that vacant property registration ordinance should include the following elements:

* A clear definition of which properties and which parties must register;[[16]](#footnote-16)
* The registration requirements and procedures[[17]](#footnote-17), including the information required of the owner or lienholder;[[18]](#footnote-18)
* The fee structure;
* The obligations of the owner, with respect to maintaining the property; and
* The penalties for failing to register in timely fashion.

### VPROs IN OHIO

[**Click here to view the VPRO language from Ashtabula, OH**](http://cityofashtabula.com/wp-content/uploads/2013/05/vacant-building-enforcement-Ordinance.pdf)

[**Click here to view the VPRO language from Painesville, OH**](https://www.painesville.com/?SEC=D8B7BA2D-DA45-4AD4-B908-3019E45FA9FC)

[**Click here to view the VPRO language from Cleveland Heights, OH**](https://www.clevelandheights.com/198/Vacant-Building-Registration)

[**Click here to view VPRO language from Sandusky, OH**](https://www.mcs360.com/codecompliance/v1226/sandusky-ohio-sandusky-vacant--foreclosed-property-registration-ordinance.aspx)

[**Click here to view the registration form for a vacant property from Ashtabula, OH**](http://cityofashtabula.com/wp-content/uploads/2017/11/VACANT-BUILDING-LETTER.pdf)

[1] http://www.yndc.org/news-media/press-coverage/code-enforcement-struggles-bring-out-state-owners-compliance-vindicator

[2] https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics/Occupancies/osvacantbuildings.pdf

1. These first two bullet points really boil down to open lines of communication. Identify who the right parties are, especially relevant for “zombie foreclosures” and communicate directly. [↑](#footnote-ref-1)
2. For “zombie foreclosures” there is an entire process in the mortgage servicing industry that operates in parallel with municipal requirements and requirements. Having a thorough understanding of this process makes things easier for all parties. [↑](#footnote-ref-2)
3. Accurate description, however a lot may be dependent on the housing make-up in the community. Outsourcing the administration to entities like MuniReg, allows for revenue to be utilized for additional staffing or property maintenance in a case of non-compliance. Any additional staffing could be utilized for more critical matters. Outsourcer is incentivized to increase compliance as the more registrations the greater the revenue. An outsourcer with expertise in zombie foreclosures, urban blight and various solutions brings additional value-add to any partnership. [↑](#footnote-ref-3)
4. Critical that the information is shared with first responders but there are other internal uses for information provided in registration forms that many communities that have a program are not utilizing. Regarding the “Red X” discretion should be utilized as one would not want to “advertise vacancy” to the criminal element. A strong VPRO, shared internally as needed along with judicious usage of signage will deliver positive results. [↑](#footnote-ref-4)
5. This touches on an oft mentioned concern. Should a responsible property owner, especially a resident of the community, have to pay for bad actors? It has been my experience the best approach is to have a uniform fee requirement; however, the ordinance language should include exemptions for “Owners who keep their properties in a state of good repair and make good-faith efforts to find occupants for their properties” (language above) and engage the appropriate municipal department in open, timely, and truthful dialogue regarding the property. [↑](#footnote-ref-5)
6. Whether outsourced or not, there is a cost to administering a registry. [↑](#footnote-ref-6)
7. When utilized correctly, a VPRO can benefit both the municipality and property owners. For municipalities it assists in their analysis of their housing stock which can help in reclamation projects, grant requests etc. For a property owner it allows for direct and timely communication if an issue arises i.e. vandalism, fire, tree falling etc. For some municipalities there could be the option of including in police patrols as a proactive preventative measure. [↑](#footnote-ref-7)
8. VPRO’s have existed for a significant amount of time and there has been to correlation to a decrease in lending or investment in that area. Regarding the statement “A VPRO shifts the costs of vacant properties away from neighborhoods and local governments and onto the appropriate private parties” a VPRO will identify a responsible party, who can be informed of the requirements and penalties etc. but they still have to agree to take maintenance actions. The direct lines of communication will significantly increase these actions but cannot guarantee as there may be legitimate reasons why action cannot be taken. The direct lines of communication will significantly increase transparency which in the case of inaction by the property owner will open additional options for the municipality. [↑](#footnote-ref-8)
9. This touches on the necessity to have strong exemptions to exempt the good actors. [↑](#footnote-ref-9)
10. Many communities are adding fines to the tax roll. Usually the fines for non-compliance with the maintenance requirements. Traditional liens often take significant time to be recouped. Often traditional liens are extinguished at sheriff/foreclosure sales and the municipality recoups nothing. [↑](#footnote-ref-10)
11. Vacancy/abandonment causes blight not foreclosure. A hybrid model is the best option; earlier of 1) vacancy/abandonment and 2) filing of notice of default/lis pendens. With the requirement to update the latter if vacancy is determined at a later date. [↑](#footnote-ref-11)
12. Fees range greatly from no fee to several hundred or St Paul MN $2,000 + or Minneapolis MN $7,000+. Several communities have a foreclosure bond requirement, usually $10,000 for residential more for commercial. The funds are kept in escrow and are utilized by the municipality if needed to take maintenance actions through the course of the registration. All unused funds are returned at “de-registration” typically minus an administrative fee. Not enough municipalities have enacted this legislation to know if it has any detrimental consequences i.e. discouraging lending or investment, or the oversight/administration burden outweighs any benefit. [↑](#footnote-ref-12)
13. See footnote 11 above. There shouldn’t be two registrations. Only an “earlier of” requirement along with requirement to update as needed. [↑](#footnote-ref-13)
14. This is a traditional “carrot or stick” issue Some communities have an escalating fee schedule based off length of vacancy to incent property owners to expeditiously return the property to productive use. For zombie foreclosures the incentive is minimal as often they are required to follow federal regulations that can impact length of vacancy. For property owners it could be an incentive however as the property is an asset, it is fair to assume that the property owner desires to have the property return a benefit either as a home or an investment. For communities that have owners “waiting till the market improves” it could be beneficial. However, a plan must be in place should the property owner “walk away” as a result of the fines. [↑](#footnote-ref-14)
15. Strong exemption language can address this concern. [↑](#footnote-ref-15)
16. Definition of “owner” specifically. [↑](#footnote-ref-16)
17. Including “when” registration is required. [↑](#footnote-ref-17)
18. Clear language and only relevant language. Here too knowledge of the mortgage servicing industry is valuable. For example, many ordinances require a “local” property maintenance contact. That works for a traditional property owner however for a bank or mortgage company its worthless and an unnecessary delay. [↑](#footnote-ref-18)