

# Blank Spaces: Analyzing Reforms to Chicago's Commercial Vacant Lot Problem

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## I. INTRODUCTION

The city of Chicago owns over 10,000 vacant lots with another 16,634 on their way to becoming city-owned due to back taxes and unpaid fees.<sup>1</sup> These vacant properties can “devastate the neighborhood and block, undermine the neighbors’ quality of life and diminish the value of nearby properties[.]”<sup>2</sup> Vacant lots are associated with crime, lack of housing and commercial spaces, and destabilization of the neighborhood, all while bringing in no tax revenue for the city.<sup>3</sup>

Chicago has tried numerous reforms to return vacant land to productive (and taxable) uses, but much of the city-owned land has stuck with the city.<sup>4</sup> Vacancy can seem contagious, spreading to infect much of the neighborhood it is in and becoming more complicated to untangle the longer it sits idle.

This article will consider the journey of a Chicago plot from city ownership through the bureaucratic maze of Chicago and back out into the private market. First, it will explore Chicago’s past attempts to sell publicly owned land. Then, it will consider the recent reforms attempted by the city, identifying the successes and failures of those

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<sup>1</sup> Joe Barrett, *Too Many Vacant Lots, Not Enough Housing: The U.S. Real Estate Puzzle*, WALL ST. J. (Aug. 17, 2023).

<sup>2</sup> Katherine Barrett & Richard Greene, *How Cities and Counties Are Dumping Abandoned Properties*, ROUTE FIFTY (Feb. 14, 2022), <https://perma.cc/8NUA-B5TH>. Barrett and Greene make the assumption that lots should not be left vacant and instead should be put towards economically productive uses. This assumption is not universally held. Property rights include the right to exclude and the right to do what one wishes with one’s land, which can be in tension with the role of property law in helping people put resources to good use. For an interesting discussion of the relationship between property rights and vacancy, see Nate Ela, *Property and the Problem of Disuse*, 100 WASH. U. L. REV. 995 (2023).

<sup>3</sup> Elizabeth Butler, Note, *Second Chances for the Second City’s Vacant Properties: An Analysis of Chicago’s Policy Approaches to Vacancy, Abandonment, & Blight*, 91 CHI.-KENT L. REV. 233, 239 (2016).

<sup>4</sup> See *infra* Section III.

attempts. Finally, it will raise considerations that the city should contemplate in its future reform efforts.

## II. ANALYSIS

### A. Becoming City Owned

Chicago takes ownership over abandoned and neglected lots due to unpaid debts, abandonment, or forfeiture of hazardous or neglected properties.<sup>5</sup> This includes “zombie properties”—abandoned properties resulting from an unresolved foreclosure where unclear ownership gives no party incentive to assume responsibility for maintaining the property.<sup>6</sup> The city of Chicago, like most cities, is aggressive in bringing forfeiture actions for neglected properties, and the courts are likely to presume in favor of the city when awarding forfeiture.<sup>7</sup>

One reason the City of Chicago faces a stream of abandoned lots is the perpetuation of racist economic structures. Many of the city-owned properties are located in communities of color, and these communities are plagued by economic systems that increase the likelihood that residents will be unable to pay their taxes. One example is the inequalities in home assessment value.<sup>8</sup> It has been a “persistent, widespread practice” in the appraisal industry to give higher values to white homeowners.<sup>9</sup> As a consequence, the market value appraisal may be artificially low when it comes time to refinance, borrow against the home, or sell. Despite this, the tax assessment for Black homeowners is assumed to be keeping up with white homeowners, resulting in a higher percentage of property tax assessment relative to actual market value and ultimately a higher tax burden.<sup>10</sup> This is compounded when you consider that minority homeowners in Chicago are significantly less likely to appeal their property tax assessment and less likely to win when they do.<sup>11</sup> These financial hurdles make it more likely that a Black homeowner will fall behind on their property taxes compared to a white homeowner.<sup>12</sup>

Much of today’s problems around abandoned property can be traced back to the Redlining practices of the 1940s. The federal Home Owners’ Loan Corporation

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<sup>5</sup> Jennifer Aronsohn, Note, *Community Claim of Right*, 51 URB. LAW. 1, 2 (July 2021).

<sup>6</sup> Butler, *supra* note 3, at 238-39.

<sup>7</sup> See Aronsohn, *supra* note 5, at 6.

<sup>8</sup> Ted Gregory, *CMF Research on Cook County Scavenger Sale Leads to State Legislation and Reform*, U. CHI. HARRIS SCH. PUB. POL’Y (Aug. 15, 2023), <https://perma.cc/L35V-ECF7>.

<sup>9</sup> Debra Kamin, *Widespread Racial Bias Found in Home Appraisals*, N. Y. TIMES (Nov. 2, 2022).

<sup>10</sup> Andrew Van Dam, *Black Families Pay Significantly Higher Property Taxes Than White Families, New Analysis Shows*, WASH. POST (Jul. 2, 2020).

<sup>11</sup> Carlos F. Avenancio-León & Troup Howard, *The Assessment Gap: Racial Inequalities in Property Taxation*, 13 Q. J. ECON. 1383, 1385–86 (2022).

<sup>12</sup> See Gregory, *supra* note 8.

drew up “security maps” grading the prospect of mortgage lending.<sup>13</sup> The areas deemed high lending risk and given the highest interest rates, were labeled “red”.<sup>14</sup> One factor considered when attaching the “high risk” label would be if an area contained “undesirable racial or nationality groups”.<sup>15</sup> In 2022, of the properties owned and auctioned off by the city of Chicago that were included in the 1940 Chicago area map, 57% were in “red” areas and an additional 40% were in “yellow” areas.<sup>16</sup> Only 0.1% of the vacant properties offered in the 2022 Scavenger Sale were in the best, or “green”, designation in the 1940s map.<sup>17</sup> These “high risk” areas have been plagued by racially inflated interest rates for decades, leaving property owners worse off financially and more vulnerable to falling behind in their payments.

Once someone falls behind on property taxes or lot maintenance, the problem compounds and it becomes more and more difficult to pay off the debts—or “redeem” the land. If a landowner falls behind on property taxes, interest rates for nonpayment are 1.5% per month for the first 13 months.<sup>18</sup> In an attempt to recoup some of the lost revenue from taxes, the Cook County Treasurer’s office will auction off the unpaid property taxes in the Annual Tax Sale.<sup>19</sup> The bidders bid on the right to the tax lien, with the winning bidder being the one who offers to charge the lowest rate of interest to the property owner.<sup>20</sup> The bidder must pay the taxes plus interest and may put a lien on the property for the amount paid.<sup>21</sup> If the property owner does not pay the money owed and fails to pay a subsequent bill, the tax buyer can pay those bills and add 12% interest.<sup>22</sup> Because the interest rate is applied every six months, the interest can grow to be 64.5% of the original unpaid debt within 30 months, and after 30 months the bidder can secure a court-ordered deed to the home.<sup>23</sup>

If a property owner falls behind on lot maintenance (such as not mowing their lawn), Chicago can collect a fine every day the property does not meet maintenance requirements, which can quickly become thousands of dollars and turn

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<sup>13</sup> COOK COUNTY TREASURER, *Maps of Inequality: From Redlining to Urban Decay and the Black Exodus 6* (2022), <https://perma.cc/SU7A-J5HG> [hereinafter *Maps*].

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *See Maps*, *supra* note 13, at 6.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 20.

<sup>19</sup> Heather Cherone, *Pritzker Signs Bill Designed to Revamp Property Tax Sale System That Fueled ‘Urban Decay’*, WTTW (Aug. 14, 2023, 10:27 AM), <https://perma.cc/46K4-XE4M>.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

into a lien against the property.<sup>24</sup> In either situation, it is unlikely that the property owner will ever be able to repay the debt and recover the land. It can take a few years before the government can take possession of property for non-payment, and during that time the land sits vacant and the debt owed continues to grow.<sup>25</sup>

Abandoned property can cause numerous problems for a city and its communities. In Chicago, abandoned lots are concentrated in economically challenged neighborhoods.<sup>26</sup> More abandoned property can create a destabilizing spillover effect as an increase in abandoned property is associated with decreasing property values and increasing crime.<sup>27</sup> Other cities have seen a drop in crime following efforts to restore vacant lots.<sup>28</sup> In Chicago, half of all violent crime is in the 13 wards with the most abandoned properties.<sup>29</sup> Abandoned properties also put a financial strain on local governments, who become responsible for maintenance of the lot while simultaneously collecting no tax revenue.<sup>30</sup> It is estimated that Cook County loses an estimated \$1.15 billion a year—\$255 million in just the city of Chicago—in property taxes from vacant property.<sup>31</sup>

## B. City Ownership vs Private Ownership

While city-owned lots are technically owned by the public, it is important to think of the city like a private citizen. City owned lots are treated analogously to private property. The accessibility and openness of an empty lot does not convert it automatically into a public park; rather, the city has the right to determine usage of the lot.<sup>32</sup> Thus, the city has the right to exclude the public.<sup>33</sup>

Do these lots need to be sold back to private citizens? Marshall Brown, a Chicago urban planner, believes that these vacant lots may present an opportunity for Chicago to utilize land in a different way that may benefit the community, such as

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<sup>24</sup> See Aronsohn, *supra* note 5, at 5.

<sup>25</sup> It is not clear that a slow process to sell lots is itself a problem. One reform the Cook County Treasurer celebrated was giving homeowners an extra year of debt before the city auctions off the deed to their land. See Maps, *supra* note 13, at 40. It is a good reminder that decreasing the number of vacant lands taken over by the city is a way to resolve the issue of abandoned, unused plots, lest we jump quickly on land sales as the silver bullet.

<sup>26</sup> Mackenzie Hawkins, *Chicago Plans to Speed Up Vacant Lot Sales in Bid to Curb Crime*, BLOOMBERG (Oct. 18, 2022), <https://perma.cc/6JRE-YL6W>.

<sup>27</sup> See Butler, *supra* note 3, at 239.

<sup>28</sup> See Hawkins, *supra* note 26.

<sup>29</sup> See Barrett, *supra* note 2.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> See Aronsohn, *supra* note 5, at 4.

<sup>33</sup> *Id.* at 3.

increasing green space or creating bike paths.<sup>34</sup> However, for Chicago to effectively absorb the land, it would need to be an effective manager. A study in the *Journal of the American Planning Association* found the City of Chicago does a poor job compared to private citizens in taking care of the lots, regardless of whether the private citizen lived on the same block as the lot.<sup>35</sup>

Chicago's shortcomings as a landowner may be due to a difference in the requirements imposed on the city compared to private individuals. The City of Chicago does not hold itself to the same requirements as it puts upon private landowners, such as erecting a fence around empty property.<sup>36</sup> Private individuals who risk fines and ultimately losing the land if they do not take care of the property.<sup>37</sup> Chicago does not fine itself, nor could it take the property away from itself if it neglects to care for the property. Chicago also has had administrative issues when it does attempt to care for properties, multiplied by a lack of a reliable list of city-owned land.<sup>38</sup> Lots owned by Chicago may also pose a greater threat to neighborhood residents. Law enforcement is permitted to police city-owned property more aggressively.<sup>39</sup> Additionally, Chicago does not have to meet the same requirements for notifying people that they are on privately owned land, such as posting "no trespassing" signs, thus exposing neighbors unknowingly to criminal trespassing charges.<sup>40</sup>

### C. Selling the Land

Chicago may not be able to sell a city-owned lot due to environmental liability. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 governs liability for properties contaminated by hazardous substances.<sup>41</sup> In 2018 as a part of the BUILD Act, Congress amended requirements around local

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<sup>34</sup> See Butler, *supra* note 3, at 264-65.

<sup>35</sup> Alessandro Rigolon, et. al, *Transferring Vacant Lots to Private Ownership Improves Care and Empowers Residents*, 87 J. AM. PLAN. ASSN. 570 (2021).

<sup>36</sup> See Aronsohn, *supra* note 5, at 4.

<sup>37</sup> *Id.* at 5.

<sup>38</sup> For example, see the OIG report on the Chicago Department of Streets and Sanitation's system for clearing overgrown city-owned lots. The report found that employees lacked knowledge of the Department's goals, did not have a consistent process or expectations communicated down to ward superintendents, and lacked the data to track which lots had been mowed regularly. Patty Wetli, *Report: Streets & Sanitation Ineffective in Clearing Weeds from Vacant Lots*, WTTW (Jul. 23, 2020, 3:46 PM), <https://perma.cc/W69A-8L98>.

<sup>39</sup> See Aronsohn, *supra* note 5, at 3.

<sup>40</sup> *Id.* at 12.

<sup>41</sup> EPA Mem. Superfund Liability Protections for Local Government Acquisitions after the Brownfields Utilization, Investment, and Local Development Act of 2018, 1 (June 15, 2020), <https://perma.cc/6W34-ZK7P>.

governments acquisition of property to provide additional exemption coverage from environmental liability.<sup>42</sup> However, this is not a comprehensive exemption.<sup>43</sup> Local governments are encouraged by the EPA to make an environmental site assessment before acquiring ownership of any property to ensure they do not disturb or exacerbate the conditions on the city through their activities and avoid liability.<sup>44</sup> These assessments can take time and be costly, as can the necessary remedies to prepare contaminated land for sale.<sup>45</sup>

Even if a property can be sold, finding a buyer presents another hurdle. Many distressed properties are in impoverished neighborhoods and are not seen as a good investment opportunity.<sup>46</sup> Buyers may think that the cost of maintaining the land outweighs any potential benefit of holding it. Private citizens may not want to purchase abandoned lots due to cumbersome rules to resolve unpaid tax bills.<sup>47</sup>

Selling a lot does not guarantee that the lot will not be left vacant. Holding abandoned property may result in cheap tax assessments and disincentivize owners from putting the property on the market.<sup>48</sup> Commercial property buildings may sit vacant because the owner can't afford to bring the building up to code, or the rent is too expensive for tenants.<sup>49</sup> Owners may also be taking advantage of a vacancy tax break for commercial properties by applying for tax relief from the Cook County Assessor's Office if they "[have] made good faith efforts to lease or rent the property".<sup>50</sup>

### III. ATTEMPTED REFORMS

#### A. Scavenger Sale

Every other year, the county sells off properties in a tax-lien auction known as the scavenger sale.<sup>51</sup> Properties with three or more years of unpaid taxes in the last 20 years are eligible for the sale.<sup>52</sup> The Land Bank and the Cook County government have priority bids, and to outbid them a private buyer must bid more than the total amount

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<sup>42</sup> *Id.* at 2.

<sup>43</sup> *See id.* at 6.

<sup>44</sup> *Id.* at 2.

<sup>45</sup> *See, e.g.,* Barrett, *supra* note 2; Hawkins, *supra* note 26.

<sup>46</sup> *See* Gregory, *supra* note 8.

<sup>47</sup> *See* Barrett, *supra* note 1.

<sup>48</sup> *Id.*

<sup>49</sup> Maxwell Evans, *Some Landlords Keep Their Storefronts Empty for Years – And Get Tax Breaks For It. Business Leaders Want to Change That*, BLOCK CLUB CHICAGO (Oct. 4, 2021), <https://perma.cc/PE8Y-MBGE>.

<sup>50</sup> *Id.*

<sup>51</sup> *See* Barrett, *supra* note 1.

<sup>52</sup> *See* Maps, *supra* note 13, at 4.

of taxes, interest, and fees owed on the property.<sup>53</sup> After the sale is conducted, the original property owner has time to pay back taxes on the property.<sup>54</sup> If the owner does not redeem the property by paying the taxes, the bidder must pay all unpaid taxes billed on the property to take title.<sup>55</sup>

The Scavenger Sale has been found by the Cook County Treasurer to be “inadequate in restoring properties to productive use.”<sup>56</sup> In 2022, only about 60% of the properties even received bids, and of those that received bids, 13.6%, or 4110 properties, were taken to deed and 3333 of those properties were redeemed and returned to the original seller.<sup>57</sup> With so many of the properties redeemed, it is clear the Scavenger Sale is not selling vast tracks of land to private developers. This is confirmed by the records of attendance from the 2022 Scavenger Sale, where they saw only 3.4% of successful bids from out-of-town companies. Many of the top bidders were “Black individuals or Black-owned companies,” a change from the Scavenger Sale’s segregationist origins.<sup>58</sup>

A purchased property is returned to the Scavenger Sale if the bidder fails to acquire title and the owner does not pay off the debt.<sup>59</sup> Ninety-three percent of the properties offered in at least one sale between 2007 and 2019 had been offered in a prior sale.<sup>60</sup> Very few properties escape this cycle of being offered for sale again and again, allowing “swaths of unused, deteriorating land in economically struggling, mostly minority city neighborhoods and suburbs to continue deteriorating.”<sup>61</sup> Economically, it makes sense that these properties are not purchased. For 33%, the delinquent tax bills exceeded their current estimated market value.<sup>62</sup> Another 25% carried debts exceeding 50% of their value.<sup>63</sup>

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<sup>53</sup> *Id.*

<sup>54</sup> Six months for a vacant commercial property, 30 months with the potential for a 6-month extension for a residential property. A bidder can shorten the time to 24 months if the property is abandoned. *See id.* at 36.

<sup>55</sup> *Id.* at 4.

<sup>56</sup> *Id.* at 2.

<sup>57</sup> *Id.* at 29.

<sup>58</sup> Maps, *supra* note 13, at 26. The Scavenger Sale was launched in 1943 by “the same officials who created the system of modern segregation.” Cherone, *supra* note 19.

<sup>59</sup> *Id.* at 29.

<sup>60</sup> *Id.* at 20.

<sup>61</sup> *Id.* at 29.

<sup>62</sup> *Id.* at 20.

<sup>63</sup> *Id.*

## B. Large Lots Program

From 2014–2018, Chicago attempted to give lots away through the Large Lots Program. Under the program, anyone who owned property could buy lots on their block for \$1.<sup>64</sup> Ideally, selling to existing homeowners would ensure the lots went to those who understood the needs of the area and were invested in community development.<sup>65</sup> The initial response to the program was strong, with the pilot program in Englewood receiving more than 400 applications to purchase 500 vacant lots.<sup>66</sup> Ultimately, the program offloaded more than 1400 vacant lots.<sup>67</sup>

While the program did remove some land from city ownership, it is not clear whether it was a success. First, many community residents were not eligible to participate in the program. The applicants could not owe debts to the Chicago, including back taxes and parking tickets.<sup>68</sup> Second, requiring the land to be purchased by those who owned other lots barred renters from purchasing land. Third, developers exploited an administrative shortcoming in the program requirements.<sup>69</sup> Although the program sought to give lots to existing community homeowners, it only required a showing of ownership. This left many developers living outside the area nonetheless eligible to participate despite the fact that owning property on a block is not equivalent to living in the community.<sup>70</sup>

The lots that were purchased were not all taken from vacant to productive. The program lacked requirements for what must be done with the land when it was purchased; the only legal requirement is that the purchaser must wait five years before selling the parcel.<sup>71</sup> The “homeowner” requirement could be met even if the other lot owned also sat vacant, allowing developers to expand their vacant lot investment holdings.<sup>72</sup>

Some lots were even downgraded from productive to vacant. Stories emerged from the Large Lots program of abandoned lots that neighbors had turned into gardens or community spaces being sold to outside developers and returned to vacant spaces.<sup>73</sup> The Department of Planning and Development was supposed to work with

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<sup>64</sup> David Schaper, *For Sale: Vacant Lots on Chicago Blocks, Just \$1 Each*, NPR (Jul. 2, 2014, 4 AM ET), <https://perma.cc/2AQW-FNY7>.

<sup>65</sup> Nona Tepper, *The Collateral Damage of \$1 Vacant Lots*, CHICAGO MAGAZINE (Nov. 19, 2018, 1:39 PM CT), <https://perma.cc/UGR2-7TVD>.

<sup>66</sup> See Schaper, *supra* note 64.

<sup>67</sup> See Hawkins, *supra* note 26.

<sup>68</sup> See Schaper, *supra* note 64.

<sup>69</sup> See Tepper, *supra* note 65.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*



aldermen to determine if there was a pending development project on any of the lots or if there was already a productive use occurring on the lot (like a community garden), but not all of these spaces were removed from the list of lots available for sale.<sup>74</sup>

### C. Land Bank

Land Banks are tools used by cities allowing government (or in Chicago’s case, quasi-government) to function like a “property clearinghouse” buying the transferring properties and removing some legal barriers, such as expediting the process of acquiring title to zombie properties.<sup>75</sup> Chicago’s quasi-government status allows it to be tax-exempt and hold property tax free, but also gives it flexibility to respond to market conditions since it operates independently from Cook County.<sup>76</sup>

In Cook County, as of August 2023, the land bank program has around 860 lots and is acquiring 1,000 more.<sup>77</sup> It purchases properties, often at the Scavenger Sale. Then, it holds the property in case the landlord redeems it, pays off outstanding fees like demolition liens and water bills, clears the title on the property and then sells it at market value.<sup>78</sup> Since its formation in 2013, it has transitioned 865 vacant lots and over 1,100 abandoned buildings to tax-payer ownership.<sup>79</sup> However, it lacks a consistent funding source, forcing it to make strategic choices in what properties it acquires.<sup>80</sup> The Cook County Land Bank focuses on neighborhoods with a private market to purchase property, leaving the most economically desolate neighborhoods without assistance.<sup>81</sup>

### D. Recent Reforms

Both Chicago and Cook County are attempting to increase transparency around what lots are available for purchase. In October 2022, as a part of the Chicago Recovery Plan, Chicago allocated \$87 million in federal and bond funding to vacant lot revitalization.<sup>82</sup> Part of the plan included a comprehensive survey of all empty plots.<sup>83</sup> The Cook County Treasurer then created an interactive map to attract more buyers to the Scavenger Sale. The map can be used to “see all the properties, how

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<sup>74</sup> *Id.*

<sup>75</sup> *See* Butler, *supra* note 3, at 251.

<sup>76</sup> *Id.* at 253.

<sup>77</sup> *See* Barrett, *supra* note 1.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *See* Butler, *supra* note 3, at 253–54.

<sup>81</sup> *Id.*

<sup>82</sup> Hawkins, *supra* note 26.

<sup>83</sup> *Id.*

many are in a certain community and block, and learn the characteristics of each property to be offered.”<sup>84</sup>

In November 2022, the Department of Planning and Development consolidated its land-sale programs into a single online portal called ChiBlockBuilder.<sup>85</sup> The program was framed as a replacement to the Large Lots Program.<sup>86</sup> Chicago planned to offer local residents 2000 lots they could apply to own.<sup>87</sup> All lots have passed environmental inspections, reducing the risk that a resident applies for a lot that could not be transferred.<sup>88</sup> By streamlining the process, the sales time is expected to be cut in half to about six months.<sup>89</sup> Buyers now have to file a plan and timelines for the space with the city.<sup>90</sup> This should reduce the chances that these lots stay vacant after purchase. However, the program may have priced out many buyers as the lots will now be sold for 10% of market value.<sup>91</sup>

Governor Pritzker signed a reform bill on August 11, 2023 seeking to improve the Scavenger Sale process.<sup>92</sup> The bill will reduce the number of properties going to auction through slashing the annual interest rate on delinquent property taxes in half.<sup>93</sup> It will also speed up the time that it takes to clear the title on a tax-delinquent property by allowing Cook County to automatically acquire tax liens on the properties before they reach the Scavenger Sale.<sup>94</sup> Local governments also have the authority to take control of properties that are not purchased during the sale.<sup>95</sup> It is estimated that these changes, along with others that allow counties to work with municipalities and land banks, will cut in half the time it takes for the county to change ownership.<sup>96</sup>

Additionally, the bill gets rid of a tax-loophole investors were taking advantage of in the Annual Tax Sale. When an investor wins a bid on unpaid property taxes, they pay the debt owed to the city, then they take over as debtor to the property owner and ultimately acquire the property if the debt goes unpaid.<sup>97</sup> Before this reform, investors

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<sup>84</sup> See Barrett, *supra* note 2.

<sup>85</sup> Greg Menti, *How is Chicago Addressing Its Vacant Lot Problem?*, ARCHITECT (Mar. 30, 2023).

<sup>86</sup> Sun-Times Media Wire, *City of Chicago to Sell Off 2,000 Vacant Lots on South and West Sides for Fraction of Value*, FOX 32 CHICAGO (Dec. 28, 2022), <https://perma.cc/6A3Z-7RYV>.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> See Hawkins, *supra* note 26. As of October 2023, the Author was unable to find data about the initial sales of land. Applicants to the program should have heard back from the city in Spring 2023. CITY OF CHICAGO, <https://perma.cc/9PSV-JKW4>.

<sup>90</sup> See Sun-Times, *supra* note 86.

<sup>91</sup> See Hawkins, *supra* note 26.

<sup>92</sup> See Gregory, *supra* note 8.

<sup>93</sup> Rate will decrease from 18% to 9%. See Cherone, *supra* note 19.

<sup>94</sup> See Barrett, *supra* note 1.

<sup>95</sup> See Cherone, *supra* note 19.

<sup>96</sup> See Gregory, *supra* note 8.

<sup>97</sup> See Cherone, *supra* note 19.

who did not want to end up with the property would get the original sale of the unpaid taxes invalidated to an “error.”<sup>98</sup> Clerical errors such as a misspelled street name were enough to cancel the sale and allow investors to walk away with just the profits.<sup>99</sup> Under the new law, the error must be significant to invalidate a sale.<sup>100</sup> While this clearly benefits Chicago, which was forced to repay the investors the unpaid taxes, it is less clear if this benefits the property owner. Investors win the bid by offering the lowest interest rate to the property owner, so fewer bids from investors due to the closed loophole will likely result in higher interest rates to the property owner.

#### IV. CONCLUSIONS AND CONSIDERATIONS

Chicago has tried many different approaches to distribute city-owned land back to tax-payers. While in the past Chicago focused on land sales, its recent reforms take a more balanced approach as it seeks to both reduce the number of properties getting caught up in rising debt and remove obstacles to releasing these properties back into the market. However, the reduced interest rates only apply to properties where the owners fall behind in property taxes; it does not assist with other bills and fees that must be paid for an owner to keep their land.

The ability for title of the properties to clear faster remains doubtful as all the improvements require government entities to act efficiently. The Land Bank’s ability to assist with regulatory hurdles was made possible because of their flexibility and independent governance as a quasi-governmental organization, something that Cook County and local governments will be unable to emulate. While there has been work on improving transparency around the acquisition of these properties through efforts like the County Treasurers’ land map or ChiBlockBuilder, it remains to be seen if they will be updated regularly and provide clear and accurate information. If the Large Lots program was any indication, buyers should be skeptical of promises that program information will be correct.

None of these reforms assist in forcing land developers who may be holding lots empty into utilizing them. It is also important to remember that vacancy does not equate to abandonment or foreclosures. While vacant lots held for investment may be kept up enough to avoid incurring city fines, they are not contributing productively to the economy. Holding land can make it harder for businesses or homeowners to find space in their neighborhoods. For commercial spaces, there has been efforts in the Illinois Legislature for the Vacancy Fraud Act which would increase penalties on property owners who benefit from decreased assessed value, market value, or tax

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<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

breaks due to vacancy when they are not attempting to sell or lease the property.<sup>101</sup> If passed, this Act could potentially be implicated for vacant lots, but only for lots zoned for commercial or business use.

One other area Chicago should consider reforming is its relationship with local communities who have begun using abandoned spaces without any formal property rights. Although Chicago has created some programs to work with these groups, it is not clear whether it is willing and administratively able to support these projects.<sup>102</sup> An interesting vein of legal analysis would be to consider a potential legal doctrine, like adverse possession, for neighborhood collectives who begin using a space without property rights.

Ultimately, it will be important for Chicago and Cook County to develop clear goals for vacant properties, since different goals may come into conflict with each other. Does it matter more to have as much land as possible moving to taxable properties, or should more emphasis be placed on who the land goes to? How long should land be allowed to sit vacant, and what is a fair amount of time to allow homeowners to redeem the land? How can one balance supporting the community with protecting property rights? Ultimately, these questions may come down to the larger issue of why we care when land sits vacant—is it purely about economic benefits or does it matter how and with whom we fill those spaces?

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<sup>101</sup> Vacancy Fraud Act, SB0202, IL 103<sup>rd</sup> Session (Introduced 1/31/2023). The Bill was previously introduced in the 2022–23 session as SB3477 and was inspired by HB2517 from 2017.

<sup>102</sup> See, e.g., NEIGHBORSPACE, *Chicago Community Growers Program*, <https://perma.cc/6A3Z-7RYV> (last visited Nov. 7, 2023).