

## Readers' Comments



### Slowing Speculation: A Proposal to Lessen Undesirable Housing Transactions

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The policy remedy proposed here—prohibiting county recorders of deeds from certifying any new ownership of property that has outstanding delinquent taxes or code violations—is elegant in its simplicity.

As the authors themselves note, however, this simplicity itself presents a danger. The prohibition could be overly broad, unintentionally harming the well-meaning buyer who has fallen behind on taxes or preventing the acquisition of vacant or tax-delinquent properties by purchasers intending to rehabilitate or productively use them.

I would urge the inclusion of a clause that would allow for two key exceptions to this policy. First, the owner of the property should have the ability to transfer ownership to a responsible public entity, such as a land bank. This action gives tax delinquent or code-violating owners an honorable way out of their situation and allows redevelopment activity to proceed without being hampered by the unclear title situation that could arise when an owner wants to dispose of a property but is unable to clear outstanding liens or fines.

The Cuyahoga County Land Bank, for example, has an excellent track record of making responsible decisions about how to use vacant properties effectively by assembling some parcels for public works projects and redeveloping others for use by the private and nonprofit sectors.

Second, there should be a legal mechanism that would enable a kind of “sweat equity” repayment plan, wherein a buyer could earn forgiveness of outstanding liens or fines associated with code violations, over time, with some combination of monetary payments and adherence to a documented and agreed-upon renovation or repair plan that brings the property back up to code and into productive use. Once the buyer has met the obligations laid out in the plan, the title could be transferred and the deed recorded.

With these amendments, the proposed law would be an effective way to stem the tide of irresponsible, speculative real estate purchases in Ohio, while still promoting responsible redevelopment and use of land and property resources.

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Chief Operating Officer  
Center for Community Progress  
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This is a very interesting proposal. Requiring all municipal liens to be extinguished before the county recorder declares the transaction official seems to have many redeeming qualities.

I do have one concern about this idea. Would enacting this policy actually create a new field of “flipper walk-aways”? A flipper acquires a property and then sells it at a small markup to an unsuspecting buyer for cash. Money changes hands, but the deed is not recorded.

The prospective new owner does not officially own the property. The flipper has the cash, so he can let the property fall into tax lien foreclosure without suffering a loss. Additionally, what if the new “owner” started spending some money on the property, only to see it foreclosed or find out he never really owned it?

If there were a way to avoid this potential pitfall, such as requiring the use of a title agency even for cash sale transactions, I think it definitely would help. It would also protect unsuspecting purchasers from ending up with the short end of the stick.

**George Mattei**  
**Vacant Property Forum Administrator**  
**ReBuild Ohio**  
**Columbus, Ohio**

***Response from the co-author, Thomas J. Fitzpatrick IV:***

*That’s a good question. I’ll start by saying no law could prevent all fraud—for example, an unscrupulous seller could use a quitclaim deed to “sell” a property that the seller does not actually own. Similarly, even if using a title agency were a requirement for transfer, properties could still be “sold” without actually using the title agency. In other words, no law ensures 100 percent compliance.*

*What our proposal addresses more directly are the large investor sales to large/small investors that enable the business model where a person or entity buys with no intent to maintain the property. As word gets out, some actors might try to keep the business model running by defrauding borrowers in the way you suggest. Others would likely exit the market because their business models would no longer work.*

*I would also encourage you to think about this proposal from more of a “recovery” angle. Our proposal would allow for easier acquisition through tax foreclosure or the demolition of condemned properties because it would become harder to transfer those on the eve of demolition/foreclosure, thereby interrupting the process (even where someone incorrectly thinks he has purchased a property).*

