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Yun Sang Lee
Korea Research Institute for Human Settlements, yunsang@krihs.re.kr

Patrick Terranova
Baltimore Development Corporation

Daniel Immergluck
Georgia State University, dimmergluck@gsu.edu

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New Data on Local Vacant Property Registration Ordinances

Yun Sang Lee
Patrick Terranova
Dan Immergluck
Georgia Institute of Technology

Abstract

This article describes the Vacant Property Registration Ordinance Database, a new database of local vacant property registration ordinances (VPROs) in the United States. Beginning with an industry list, 550 ordinances were acquired, read, and coded on more than 30 characteristics. VPROs grew dramatically in 2008 and 2009, during the climax of the national foreclosure crisis, and the number of ordinances continued to grow after 2009, albeit at a somewhat slower pace. The database provides details on the coverage, requirements, and penalties specified in VPROs across the country.

Introduction

Because of the growth in vacant properties that stemmed from the foreclosure crisis, the United States has seen a major increase since the mid-2000s in the number of local governments enacting vacant property registration ordinances (VPROs). VPROs require property owners to register vacant and foreclosed properties with local government. VPROs often require owners of the registered properties to pay a periodic registration fee (which may increase as a property remains vacant for an extended period) and to maintain and secure properties in specified ways. They may also oblige property owners to carry a minimum amount of insurance or, in some cases, to provide a minimum bond or deposit. If requirements are not met, most VPROs specify fines and, in some cases, potential criminal penalties. As of May 2012, there were more than 550 local VPROs in the United States, increases from fewer than 20 VPROs in 2000 and fewer than 100 at the end of 2007.

The proximate objectives of VPROs typically include providing better data on the extent and nature of vacant and foreclosed properties, having detailed and reliable contact information for property owners and managers, and reducing the harms and costs such properties pose to neighborhoods and local governments. Ultimately, proponents of VPROs may hope to discourage irresponsible investment by internalizing some of the social costs of vacant properties and holding owners accountable for not maintaining properties in a responsible manner.

Before the development of the Vacant Property Registration Ordinance Database, limited information on VPROs had been available. Little comprehensive data had been compiled on the coverage of the ordinances, their requirements, and the penalties for noncompliance. The Vacant Property Registration Ordinance Database provides the sort of information necessary to examine how ordinances vary. Ultimately, the database could be used to evaluate the effects of different types of ordinances on local housing market conditions.

Three fundamental types of VPROs exist: the Vacancy and Abandonment Model, the Foreclosure Model, and the Hybrid Model. The key difference among these models is the event that triggers the requirement to register properties and comply with the ordinance's other requirements. Vacancy and Abandonment-Model ordinances require property owners to register properties after a certain length of vacancy. Foreclosure-Model ordinances are ordinances in which registration is triggered by a formal, state-required notice of default or intent to foreclose that is filed as a part of a judicial proceeding or advertised by the mortgagee or servicer as a part of a nonjudicial foreclosure process. One reason that this model was developed was that localities were finding that some properties where foreclosures had been initiated were being vacated well before the foreclosure sale was complete and the property became owned by the mortgagee or another new owner (Martin, 2010; Schilling, 2009). Many more recently enacted ordinances share characteristics of the Vacancy and Abandonment Model and the Foreclosure Model, in that they can be triggered either by vacancy or by foreclosure-related actions. We classify such ordinances as following the Hybrid Model.

Within these three ordinance types (the Vacancy and Abandonment, Foreclosure, and Hybrid Models), the specific terms and requirements vary greatly. Coverage and exemptions vary, as do requirements for securing, maintaining, and insuring the property. Enforcement tools, although somewhat uniform in fundamental structure (the use of fines is the primary tool), also vary, with some localities specifying at least some violations as criminal (misdemeanor) offenses and other localities not. Maximum fine amounts also differ significantly. Another feature of some VPROs is the exemption of properties that are registered with industry databases.

Developing the Vacant Property Registration Ordinance Database

The initial list of VPROs came from the firm Safeguard Properties, Inc. (Safeguard), which has provided a frequently updated list of ordinances for several years. Safeguard is nationally recognized as a leading provider of asset management services for loan servicers and lenders. Using the Safeguard list, we identified 552 ordinances.[1] Each ordinance—or, in a few instances, a summary of the ordinance—was then read and coded into more than 30 variables, described in exhibit 1. An example of a typical database record is provided in the appendix.

Exhibit 2 describes the number of local VPROs enacted in different periods, including before 2000, from 2000 to 2007, from 2008 to 2009 (at the climax of the national subprime foreclosure crisis), and from January 2010 to April 2012. The ordinances are broken out into four types, including the Vacancy and Abandonment Model, the Foreclosure Model, the Hybrid Model, and a small, fourth category of ordinances covering occupied and vacant properties or all properties owned by an absentee owner. The Vacancy and Abandonment Model was the dominant model before 2008, with substantial growth during the 2000-to-2007 period. In 2008 and 2009, Foreclosure- and

Exhibit 1

Fields in the Vacant Property Registration Ordinance Database

1. Special note	18. Range of escalating fee
2. ID number	19. Differing fee amount
3. Locality	20. Differing fee amount by what
4. State	21. Bond requirement
5. Enacted date	22. Minimum bond required per property
6. Updated date	23. Unit of maximum fine amount
7. Title	24. Maximum fine amount
8. Target properties (types)	25. Fine amount for maintenance violation
9. Trigger to register	26. Maximum fine amount for maintenance violation
10. Triggered by locality's evaluation	27. Lien on the property
11. Definition of vacancy/abandoned	28. Criminal penalty
12. Exemption(s)	29. Security requirement
13. Registration deadline from trigger in days	30. Maintenance requirement
14. Registration term	31. Plan requirement
15. Escalating fee	32. Plan coverage
16. Registration fee for the first year	33. Insurance requirement
17. Registration fee for the second year	34. MERS or FPRC registration waiver

FPRC = Federal Property Registration Corporation. MERS = Mortgage Electronic Registry Systems.

Source: Vacant Property Registration Ordinance Database

[1] We began with a list of 587 mandatory VPROs published by Safeguard, which we downloaded from http://www.safeguardproperties.com/Resources/Vacant_Property_Registration.aspx on May 1, 2012. For a few ordinances in the Safeguard list, however, we were unable to find documentation of the ordinance (either a copy of the ordinance itself or, in a few cases, a summary of the ordinance). For 14 of the ordinances, the date of enactment was unclear, so they are not included in the time-on-enactment analysis. A significant undercount of ordinances adopted in the last few months of this period is likely, because we expect some (varying) lag between the date of enactment and the entry of the ordinance in the Safeguard database. The Safeguard list will likely expand somewhat to include ordinances enacted before May 2012 but not included in the list as of May 1, 2012.

Hybrid-Model ordinances mushroomed, although major growth was still occurring in Vacancy and Abandonment-Model ordinances. After 2009, the number of new ordinances slowed a bit, but more than 200 ordinances were adopted from January 2010 to April 2012. The number of new Hybrid-Model ordinances slowed somewhat after 2009, the number of new Vacancy and Abandonment-Model ordinances held roughly constant, and the number of new Foreclosure-Model ordinances increased.

Exhibit 3 shows the growth of local VPROs for the nine states with the most local VPROs adopted through April 2012. These nine states account for 77 percent of VPROs, led by Florida and California, which each account for 17 percent (94 and 93 ordinances, respectively) of the VPROs.[2] Illinois (61 ordinances, or 11 percent), Michigan (54 ordinances, or 9 percent), Ohio (37 ordinances, or 7 percent), Massachusetts (30 ordinances, or 5 percent), Minnesota, Georgia, and Missouri comprise the rest of the list. Many of these states have been among the leaders in foreclosure statistics during the prolonged U.S. housing crisis.

Exhibit 2

Number of Local Vacant Property Registration Ordinances Enacted, by Type

Ordinance Type	Before 2000	2000–2007	2008–2009	January 2010–April 2012	Total
Vacancy and Abandonment	15	62	83	88	248
Foreclosure	0	4	20	33	57
Hybrid	0	3	136	88	227
All properties or absentee owner	2	1	1	2	6
All types	17	70	240	211	538

Note: Does not include ordinances in Connecticut.

Source: Vacant Property Registration Ordinance Database

Exhibit 3

Growth of Vacant Property Registration Ordinances in Leading States

State	Before 2005	2005	2006	2007	2008	2009	2010	2011	January–April 2012	Total
Florida	0	0	0	0	15	31	33	14	1	94
California	3	1	0	4	44	25	11	5	0	93
Illinois	3	2	3	2	13	12	15	9	2	61
Michigan	6	1	1	1	5	15	17	7	1	54
Ohio	5	1	2	3	5	6	3	10	2	37
Massachusetts	3	0	0	1	10	9	4	3	0	30
Minnesota	6	0	1	0	0	5	3	5	0	20
Georgia	0	1	1	0	2	2	3	10	0	19
Missouri	5	3	0	0	4	5	1	1	0	19

Source: Vacant Property Registration Ordinance Database

[2] Connecticut passed a statewide vacant property registration statute in 2009, essentially imposing a vacant property registration requirement for properties across the state, although the statute allows for property owners to avoid registration with local governments if they register with a prescribed industry registration system. Connecticut localities are not included in any descriptive statistics here. For more discussion, see Immergluck, Lee, and Terranova (2012).

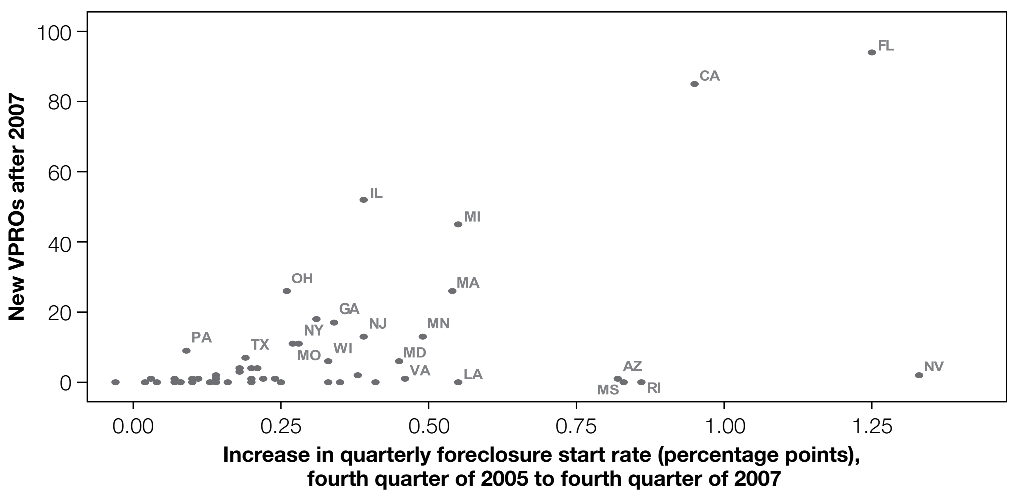
When the national foreclosure crisis took hold in 2007, California was clearly the early leader in VPRO adoption, with 4 localities enacting ordinances in 2007 and another 44 localities enacting them in 2008. Ohio had seen a steady, if slower, increase in VPROs, with 3 new ordinances in 2007 and 5 in 2008. Other states saw a substantial increase in ordinances enacted in 2008, including Florida, Illinois, Massachusetts, and, to a lesser extent, Michigan and Missouri. Two states—Ohio and Georgia—saw the rate of VPRO adoption pick up markedly in 2011. Ohio localities had already been somewhat active in adopting VPROs, enacting 14 ordinances from 2008 to 2010. In 2011, 10 additional ordinances were enacted in the state. Before 2011, Georgia had seen a slow rate of VPRO adoption, with only 9 local laws enacted up through 2010. In 2011, 10 new ordinances were enacted throughout the state. In response to the surge in such ordinances, however, by the spring of 2012, opponents of local VPROs had gotten a state law passed essentially preempting all but relatively weak ordinances.[3]

The Foreclosure Crisis and VPRO Growth

Examining the relationship between foreclosures and the adoption of VPROs, exhibit 4 plots the number of new VPROs in each state after 2007 against the increase in the quarterly foreclosure start rate at the beginning of the national foreclosure crisis. It shows a general positive association between these two variables, so that states with greater increases in foreclosure starts in 2006 and

Exhibit 4

New Local VPROs (January 2008 to April 2012) Versus Increase in Quarterly Foreclosure Start Rate (Fourth Quarter of 2005 to Fourth Quarter of 2007)



VPROs = vacant property registration ordinances.

Sources: Mortgage Bankers Association National Delinquency Survey; Vacant Property Registration Ordinance Database

[3] State of Georgia. *House Bill 110*. May 1, 2012. Available at http://www.legis.ga.gov/legislation/en-US/display/20112012/HB/110 (accessed March 8, 2013).

2007 tended to experience more new, local VPROs after 2007. Exhibit 4 also shows that states with greater increases in foreclosure starts had substantial variation in the adoption of local VPROs, however. Indeed, many other factors are at play. For one thing, the sheer number of localities varies greatly across states. Beyond such very basic differences, another factor in determining local VPRO adoption is the authority that localities within a state possess to enact and implement VPROs. Some states, such as Nevada, are strong Dillon's rule states, in which the authority to pass laws such as VPROs must be expressly granted by state statute. In other states, laws that limit vacant property registration practices at the local level or that require statewide registration may, in effect, actually discourage or prevent states from enacting their own ordinances. Differences in state property law, housing market and broader vacancy conditions, and local political environments are also likely to come into play in the extent to which local governments are likely to adopt VPROs.

Of particular note are the states in the lower right-hand portion of exhibit 4. These states, including Arizona and Nevada (two perennial leaders in foreclosure statistics during the crisis), saw very few VPROs adopted after 2007. Arizona had only one known VPRO (enacted in 2009), and Nevada had only three (enacted in 2006, 2010, and 2012). Again, state home-rule laws, state political climate, and the number of local governments are likely to be key factors here.

Potential Indicators of Ordinance Strength

The complexity of VPROs makes it difficult to develop a simple measure of the strength or rigor of an ordinance. In fact, any concept of strength is likely to be somewhat subjective and to depend on a combination of a variety of characteristics, including coverage (which types of properties are covered or excluded), requirements (including registration fees, maintenance, security, insurance, and rehabilitation plans), and sanctions or penalties (fines, criminal penalties, liens, and so on). Moreover, tradeoffs may exist between characteristics. As an example, localities may specify higher maximum fines, but this increase may be partly related to their exclusion of more property types. Although no one variable in the database will provide a comprehensive measure of ordinance strength, one might expect a set of indicators to be closely associated with overall ordinance strength. The database will enable researchers to develop their own measures of ordinance strength or, potentially, to test the effect of a particular ordinance characteristic on housing market outcomes.

Conclusion

More than 5 years after the beginning of the foreclosure crisis, localities continue to adopt VPROs at a substantial pace, but the rate of growth has slowed somewhat since the peak of the crisis. The Vacant Property Registration Ordinance Database can be updated to reflect this growth. The database is expected to help researchers and practitioners understand the nature and variation of these ordinances across many characteristics. For a fuller description of the database and a detailed data dictionary, see Immergluck, Lee, and Terranova (2012). To obtain a copy of the database, contact Dan Immergluck at dan.immergluck@coa.gatech.edu.

Appendix. Example of Vacant Property Registration Ordinance Database Record (excluding note fields)

Field Name	Field Entry	Meaning of Field Entry (from data dictionary)
Special note		Explains unusual circumstances/ nature of ordinance
ID number	28	A simple identification number in the database
Locality	Battle Creek	City or county
State	MI	State
Enacted date	09/20/2005	Date of enactment
Updated date		Date of revision, if any
Title	Ordinance 22-05	Formal title of ordinance
Target properties (types)	2	2 = residential properties
Trigger to register	2	2 = becoming abandoned
Triggered by locality's evaluation	2	2 = no
Definition of vacancy/abandoned	5, 6, 7, 22, 29, 34, 9998	5 = boarded; 6 = not properly maintained; 7= unsafe; 22 = utilities off; 29 = condemned; 34= code violation; 9998 = others
Exemption(s)	9999	9999 = not specified
Registration deadline from trigger in days	9999	9999 = not specified
Registration term	2	2 = one time
Escalating fee	2	2 = no
Registration fee for the first year	25	In dollars
Registration fee for the second year	0	0 = no fee
Range of escalating fee	9	9 = not applicable
Differing fee amount	2	2 = no
Differing fee amount by what	99	99 = not applicable
Bond requirement	9	9 = no
Minimum bond required per property	9	9 = not applicable
Unit of maximum fine amount	2	2 = per violation
Maximum fine amount	2	2 = $250 < max fine amount < $500
Fine amount for maintenance violation	2	2 = no
Maximum fine amount for maintenance violation	98	98 = not applicable
Lien on the property	1	1 = yes, can be applied
Criminal penalty	1	1 = misdemeanor
Security requirement	2	2 = secure building against unauthorized entry
Maintenance requirement	999	999 = not specified
Plan requirement	3	3 = no
Plan coverage	9	9 = not applicable
Insurance requirement	9	9 = no
MERS or FPRC registration waiver	4	4 = no

FPRC = Federal Property Registration Corporation. MERS = Mortgage Electronic Registry Systems.

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Authors

Yun Sang Lee is a recent Ph.D. graduate of the School of City and Regional Planning at Georgia Institute of Technology.

Patrick Terranova is a master's degree student in the School of City and Regional Planning at Georgia Institute of Technology.

Dan Immergluck is a professor in the School of City and Regional Planning at Georgia Institute of Technology.

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