



Blighted Property – A Constitutionally Created Opportunity



Georgia Constitution

Article IX
Section II
Paragraph VII
Section 4(d)

(Ga. Laws 2002p.1497)



Nathan Davis, City Attorney
Michael Tilson, Code Enforcement Director
City of Albany, Georgia

+ Agenda



- Purpose
- Albany Case Study and Albany's Tool Kit (Mike Tilson)
- How to Take Advantage of the Blighted Property Provision (Nathan Davis)
- Questions/Discussion



Today's Purpose



- To provide information on the “Community Redevelopment Tax Incentive Program”
- Provide a case study from Albany, Georgia where the program worked
- Provide information on how to implement the program
- Answer Questions and engage in discussion

+ Blighted Buildings





Community Redevelopment Tax Incentive Program or “Blight Tax”



- The Georgia Constitution was successfully amended in 2002 allowing counties and municipalities to establish tax incentive programs that increase taxes to properties maintained in a blighted condition and decrease taxation for a time when the respective property's blighted condition is removed.
- Albany chose to use this as one tool in the tool kit.
- Limited use so far because we have such a high volume of residential demolition cases.



Blight Tool Kit



- Property maintenance codes (e.g. the International Property Maintenance Code)
- Vacant building ordinances
- Nuisance ordinances/In Rem cases
- Zoning ordinances
- Court vs. Code Enforcement Boards
- Tax credits, historic regulations, CDBG

+ Definitions of Blight

- Some communities use O.C. G.A. § 22-1-1, Eminent Domain contains a definition that requires two of a list of 6 conditions, e.g., unsafe, no ventilation, imminent harm from a declared emergency, an EPA Superfund site or contamination, repeated illegal activity, below code for over one year after notice, conducive to disease or crime.
- Albany and others used a different approach: unfit for human habitation; or vacant and used in connection to drug crimes; or endangers health or safety resulting from unsanitary or unsafe conditions. Cannot be a dwelling house.



Albany's Blighted Building Case Study – Former Car Dealership



+ Albany's Blighted Building Success Case Study – Former Car Dealership





Case Study Highlights



- Most of the building vacant for many years. One part used by a tire dealer, who created an environmental disaster with thousands of scrap tires.
- Because of the cost of demolition, we chose to use the “Blight Tax.”
- The court entered a blight order and ten (10) months later the lender foreclosed.
- The bank sold the property to a local construction company who responded to the blight order by demolishing the buildings. Now the new owner will see the taxes reduced for three (3) years.



How to Use The Opportunity



Blighted Property and Millage Rate



- Properties with blighted Commercial or Industrial Structures.
- Properties with blighted Residential Structures that are vacant or used for purposes other than primary residences.
- Special sites such as brownfields if specified by local ordinance
- Not usually undeveloped land, as it is too difficult to define the blight.



Raising of City and County Millage



- City ad valorem taxes going toward general revenues
- County ad valorem taxes going toward general revenues
- If the City and the County have blight ordinances, taxes may be raised on the same property by each entity.
- Note: No provision is provided for school taxes or other special district taxes (CIDs, BIDs, Development Authority Millage, etc.) to increase the millage.



No Limits on the Millage Rate Increase



- No limit(s) are specified in the Georgia Constitution.
- Your local ordinance will “set” the millage rate increase.
- We have seen numbers from 3x to 7x increase in millage rate.
- Keep in mind that when you back out school taxes, city and county general millage rates may be so low that you have to raise them significantly to have an impact.



Handout – Blight Condition Summary

ART. IX, SECTION II, PARA. VII(d)

Blighted Condition

This provision of Georgia's Constitution is intended to offer local governments an opportunity to respond to the negative impact blighted properties have on a community. The "right way" is set forth in the seven subparagraphs. The City of Albany's response is summarized in the following chart.

The subparagraphs of ART. IX, SECTION II, PARA. VII(d)	City of Albany's Ordinance
(1) Specify ascertainable standards	Uses the standards in Georgia's abatement code at O.C.G.A. § 41-2-10. <u>Note:</u> a dwelling house used as a primary residence of one or more persons is specifically excluded.
(2) Establish a procedure to meet the test of notice and an opportunity to be heard (due process)	Albany's process provides for service of a petition and summons—again relying on the abatement code. <u>Note:</u> holders of a security deed; fi.fa., etc. are included.
(3) Increase in millage rate	3x the city millage rate.
(4) "Increased" revenues to be used solely for community redevelopment (optional)	Recognizes that the increased revenues will be used solely for such purpose.
(5) Removal of the property's designation as blighted	The City's ordinance makes it clear that the Municipal Court order shall "list what must be done to remove the blighted condition designation." The City Manager or the Municipal court may review an owner's contention that the property has been remediated. Included in this process is an inspection by the City's Code Enforcement Department.
(6) Decreased rate of taxation	50% reduction in City millage rate for 3 years.
(7) Other provisions	We apply the title standards of the State Bar of Georgia to determine owner/interested parties. Interested parties are provided the right to file a written response; be represented by counsel; participate at the hearing. In addition to the owner, we include only Grantee of a security deed, holder of a fi.fa., etc.

To carry out implementation of this constitutional provision our office uses the attached forms.

C. NATHAN DAVIS
City Attorney, City of Albany



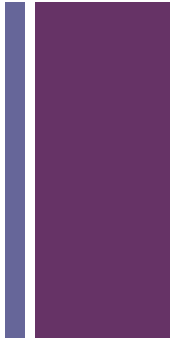
Handout – Petition



CITY OF [_____]]	
MUNICIPAL COURT	
CITY OF [_____]],)
Petitioner,)
)
vs.)
)
[insert legal description and name of)
owner(s); interested parties],)
Respondent)
)
 PETITION TO ESTABLISH BLIGHTED PROPERTY 	
<p>COMES NOW the City of [_____]] (the “City”) and respectfully files this <i>in rem</i> proceeding against the following real property:</p>	
1.	
<p>The property involved in this proceeding is located at [insert property address] in the City of [_____]], [_____] County, Georgia, and is more particularly described as follows:</p>	
[insert legal description]	
<p>Said property is within the jurisdiction and is subject to the jurisdiction of this Court.</p>	
2.	
<p>The record owner of this property is [insert owner’s name], whose last known address is [insert owner’s address] and other interested parties in this property are: _____.</p>	
<p>Each of these individuals or corporate entity is provided a summons as well as a copy of the petition so as to provide them with notice and an opportunity to be heard.</p>	



Handout – Petition



[insert name of interested person, if any] is deemed to be an interested person by virtue of a [File No., Security Deed, etc.] filed on [insert filing date] in [insert appropriate book and page number] whether GED or Deed Book], [_____] County Deed Records.

3.

The above-described premises is being maintained in violation of City Ordinance [_____] as codified at Section [_____] of the City Code in that the premises contains a dilapidated building which is unfit for human habitation as well as unfit for commercial industrial or business use.

4.

The subject structure is an endangerment to the public health and safety as a result of its failure to meet numerous provisions of the [_____] as forth on Exhibit A.

5.

Without limiting the generality of paragraph 4, [specific facts such as: the rear of the structure suffered fire damage for which no repairs have been made. Additionally, the structure's fascia and soffit are rotten; there is no electrical service; there are little if any windows; adequate heating needs to be provided; adequate plumbing fixtures need to be provided.]

WHEREFORE the City prays for an Order finding the real property to be blighted in violation of City Ordinance [_____] requiring the Respondent to put it in compliance with the requirements.

Respectfully submitted this _____ day of [_____].

City Attorney
Ga. Bar No. [_____]
Attorney for Petitioner



Handout – Summons and Return



[insert heading from petition]

SUMMONS

TO: [name and address of respondent]

You are hereby ordered to show cause before the Municipal Court for the City of Albany, Georgia, on the [date of hearing], at [_____] a.m. in Room [_____] , why the relief requested in the foregoing petition should not be granted.

WITNESS the Honorable [_____] , Judge of said Court, this the ____ day of [_____].

By: _____

[insert name of clerk]

Title: Municipal Court Clerk

RETURN OF SERVICE

I hereby certify that the original Summons was this date mailed to [name and address], by certified mail, return receipt requested # [insert receipt #]. I hereby further certify that a copy of the Summons was this date mailed to [name and address of property].

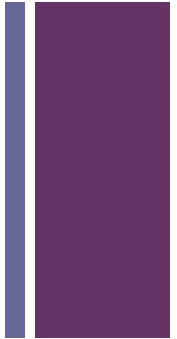
This ____ day of [insert month and year].

[insert name of city attorney]

City Attorney



Handout – Order



[insert heading from petition]

ORDER

The Petition To Establish Blighted Property (Petition) in the above-styled case whereby the City of [_____] proceeded In Rem in accordance with City Ordinance [_____] ¹ came on for hearing before this Court on [_____]. [_____] , attorney for [_____] was present.

To support its petition, the City presented testimony of its building inspector, [_____]. [_____] explained (based on his personal inspections) the significant findings: [specific facts such as: the roof of the structure has deteriorated to the extent there are substantial water leaks; numerous windows are broken; the structure is open to the general public; no plumbing, no electrical or ventilation system; trash and debris has accumulated on the property; ceiling tiles are “falling in”].

The Court is satisfied that the premises contains a building unfit for human habitation as well as unfit for business uses which constitutes an endangerment to public health or safety. See City Code § [_____].

In view of this court’s finding that the property is blighted, the court is required to “list what must be done to remove the blighted designation, and give the owner a deadline in which to finish the work.” CITY CODE § [_____]. The City produced during its presentation

¹ This Ordinance is contained in the CITY CODE at Section [_____] , et. seq.



Handout – Order



[_____]

of evidence a four page exhibit #3, “[_____] Code Enforcement—Check List

of Items to be Completed to have the Blighted Designation Removed” (a copy of which is

attached hereto and incorporated by reference). This document establishes the necessary work to

be done at this property to remove the blighted condition. The property owner must complete this

work no later than [_____]. As the blight ordinance explains, the property owner

may upon rehabilitation of the property, request removal of the property from the blight

designation. See CITY CODE [_____].

SO ORDERED, this ____ day of [_____].

Prepared by: _____

[name of city attorney]
City Attorney
Ga. Bar No. [_____]

Judge, Municipal Court,
[_____], Georgia

+ Questions and Discussion

