IMPERFECT TOOLS
LEGAL ISSUES DEALING WITH RENTAL PROPERTY

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Scope of discussion

• Regulation of existing properties
• not zoning or land use for new projects
Types of Problems

I. Condition/Maintenance

II. Use
Rental Property Problems—Causes

Undercapitalization by Owners

Transient Nature of Tenants

Market Trends—the Next New Thing
Two Approaches to Regulation

Criminal

Civil
Criminal

- Prosecution of local ordinances and adopted codes, such as building codes and International Property Maintenance Code
- Same standards apply to ordinance violation cases and armed robbery cases:
  - Proof beyond a reasonable doubt
  - Privilege against self-incrimination
  - Right to counsel
  - Right to indigent defense
  - Probable cause and search and seizure
Civil

Public Nuisance

• The hazard affects all who come within its sphere

• Enforcement—Superior Court or Municipal Court; may be brought by District Attorney or City Attorney
Civil

Statutory Nuisance Abatement

Jurisdiction can be in Municipal Court

Notice to owners—expensive research for “heir property”

Government may have to pay for demolitions—poor chance of recovery
Rental Registration—Dead on Arrival
Attacking the Symptoms
International Property Maintenance Code – can be very effective

Quality of Life Local Ordinances:

• Trash: accumulation of refuse, trash can placement
• Front yard parking
• Junk vehicles
• Fences
• Home occupations
• Over occupancy – multifamily/single family

Animal control
Civil Tools

Funding for demolition program

Classification and prioritization of nuisance properties

Land bank authority to dispose of abated properties
Process

• Operate in a nondiscriminatory manner
• Consider use of zone patrolling
• Train officers in probable cause, search and seizure, evidence gathering and testimony
• Who will prosecute?
Process, continued

Make the Judge part of the team

Keep elected officials informed

Compliance! Compliance! Compliance!

Incentives to come into compliance
Observations

• These are people—not hardened criminals. Everybody has a backstory

• Prosecutor must be free to exercise discretion in the interest of justice

• Use planning tools, housing studies, community redevelopment, utility development, etc.
QUESTIONS?