

# Beyond Code Enforcement: Understanding & Using Vacant and Abandoned Property Tools in Your Municipality

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# Why Address Abandoned Properties?

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## Threat to public safety

- Fire
- Falling debris
- Criminal activity

## Threat to public health

- Attracts illegal dumping
- Insect and rodent infestation

## Are a burden on taxpayers

- Properties in tax arrears shift burden onto responsible owners
- High municipal cost to police, maintain properties



# Why are Properties Abandoned?

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Negative cash flow (rental properties)

Foreclosure and homes being “under water” (single family homes)

Company relocation (commercial properties)

**The ongoing foreclosure crisis and Superstorm Sandy have both exacerbated the crisis of abandonment here in NJ**

# Background: The Foreclosure Process in New Jersey

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## Judicial Foreclosure Process

Foreclosure actions filed in:

Superior Court, Chancery Division,  
General Equity Part, Mercer County

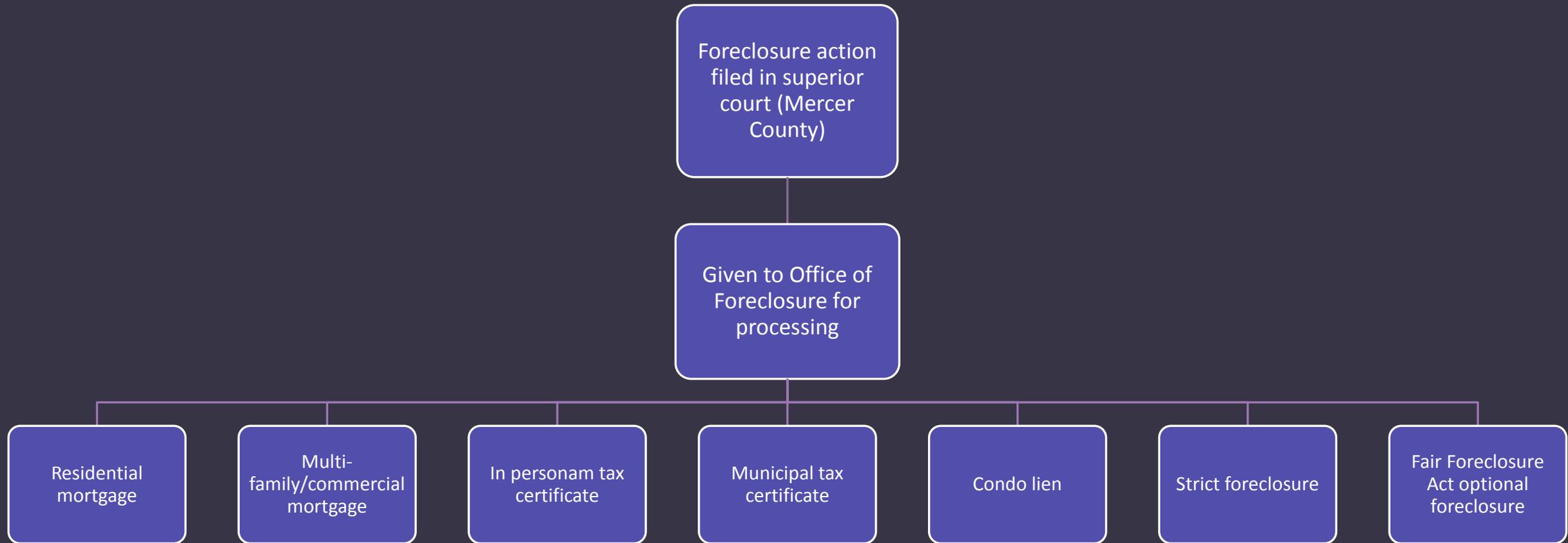
Court handles 3 types of liens:

- Mortgages
- Municipal tax liens
- Condo or Homeowner Association liens for unpaid assessments



# The Foreclosure Process in New Jersey

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# The “Zombie Foreclosure” Problem

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As of March 2015 there were 80,104 open foreclosure cases throughout the state.

Of these cases:

- 72,648 (**91%**) were residential mortgage foreclosures
- 3,097 (**4%**) were tax foreclosures
- 1,356 (**2%**) were strict foreclosures
- 1,272 (**2%**) were condo or homeowner association foreclosures
- 1,154 (**1%**) were commercial foreclosures

# Foreclosure in NJ: By the Numbers

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New Jersey residential foreclosure rate for 2015: **1.91 %** (Highest in the nation)

National foreclosure rate: **0.82%**

Total number of foreclosure filings in New Jersey: **35,000**

Number of zombie foreclosures in NJ: **3,997**. Percentage of vacant properties that are zombies: **9.4%** (Highest in the nation)

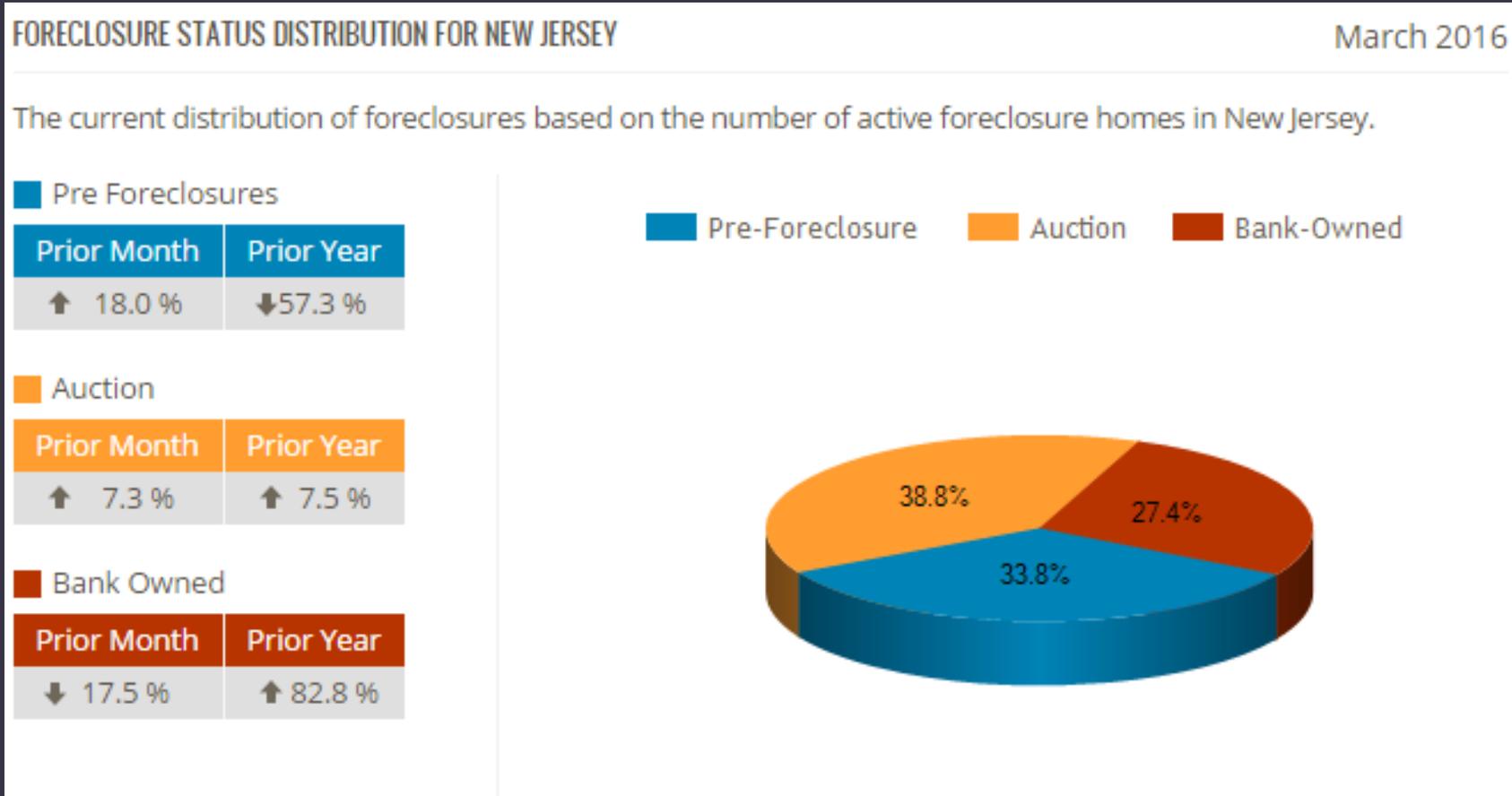
Zombie Foreclosures in NJ: **29% increase 2014 - 2015**

Zombie Foreclosures nationwide: **43% decrease 2014 – 2015\***

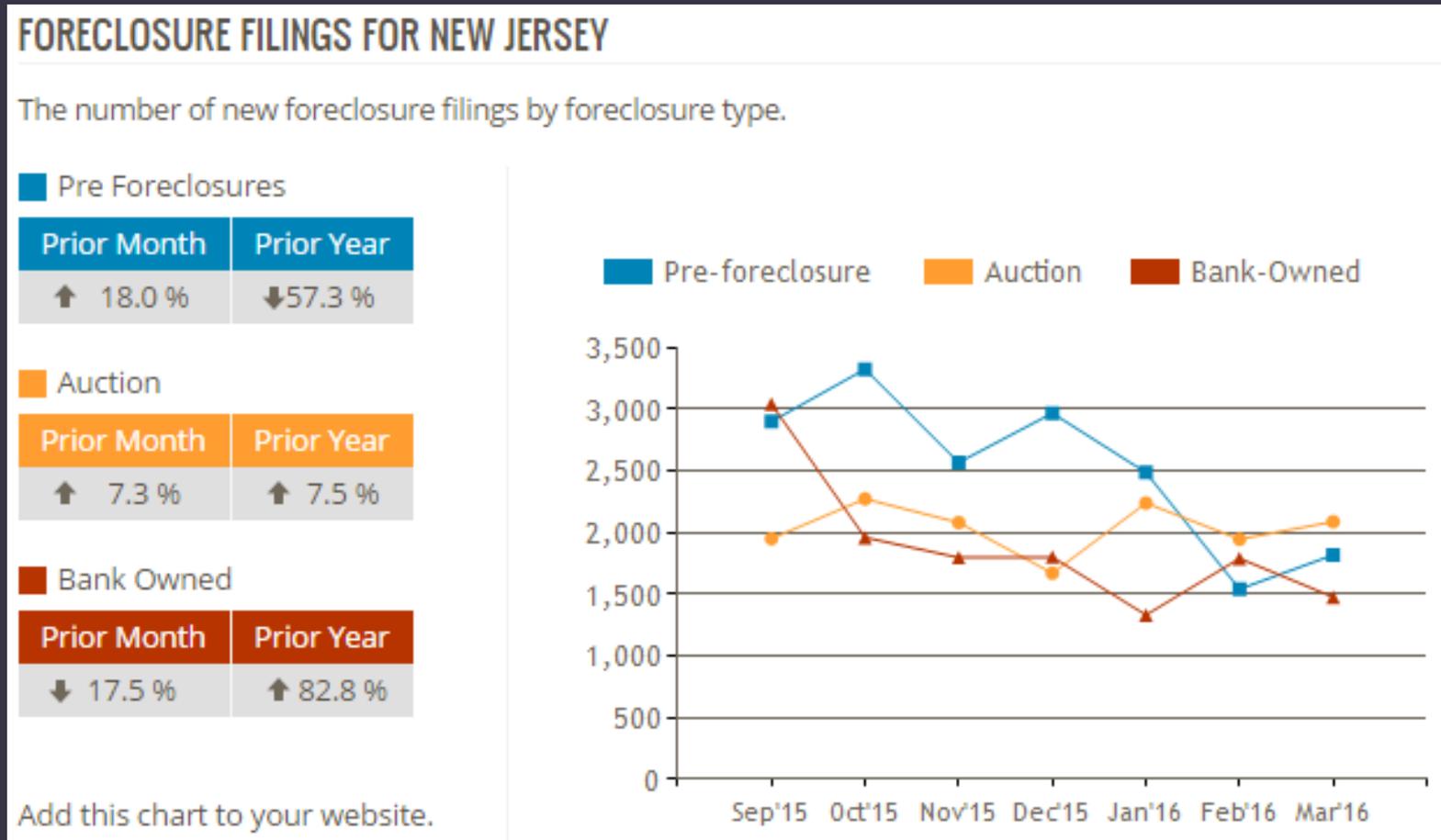
Average length of time to complete a foreclosure in NJ: **1,115 days, or just over 3 years**

\*Source: RealEstateRama

# Recent Trends...



# Not Out of the Woods Just Yet...



**New Jersey**

1 in every 662

**Top 5 Counties**

**Atlantic**

1 in every 386

**Sussex**

1 in every 425

**Mercer**

1 in every 426

**Burlington**

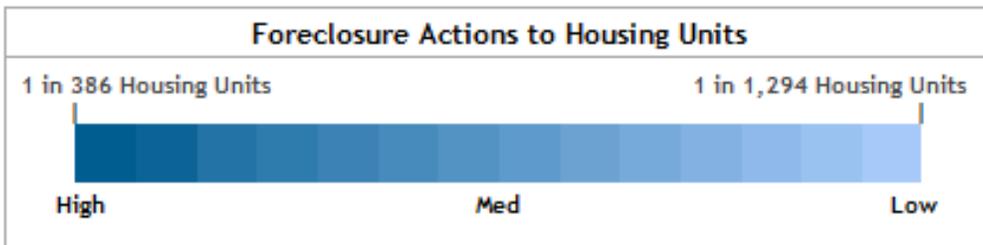
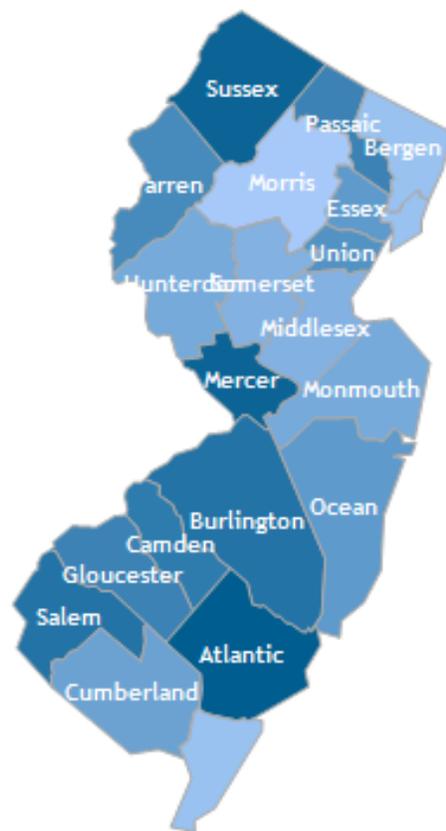
1 in every 447

**Salem**

1 in every 450

Add this map to your website.

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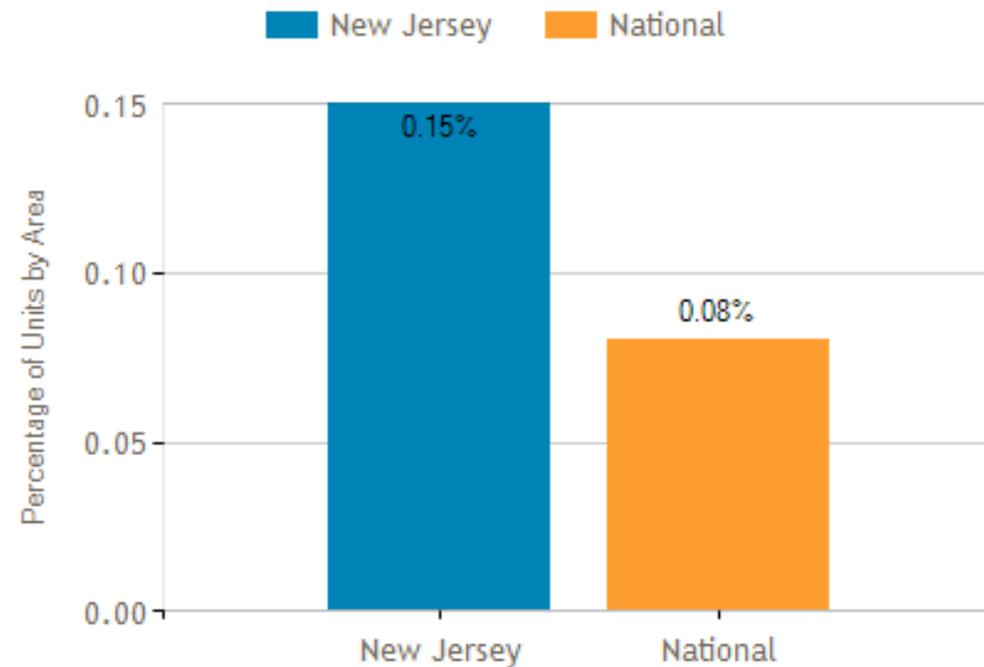
# How Does New Jersey Compare?

## GEOGRAPHICAL COMPARISON FOR NEW JERSEY

Total number of foreclosures broken down by type of filing.

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# Quiz Question #1

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# New Jersey's Abandoned Property Tools

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## ABANDONED PROPERTIES REHABILITATION ACT (APRA)

Abandoned Property List

Special Tax Sale and Assignment of Tax Liens

Accelerated Tax Foreclosure

“Spot Blight” Eminent Domain

## NON-APRA TOOLS

Vacant Property Receivership

Vacant Property Registration

Out-of-State Creditor Law



# Abandoned Properties Rehabilitation Act (APRA)

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P.L. 2003, c. 210

Signed into law in 2004

Establishes procedure for creating the abandoned property list and designating a public officer to administer the list

Creation of list enacts municipal powers to address problem properties



# Criteria for Inclusion on the Abandoned Property List

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Property has not been legally occupied for at least six months

Must meet **one** of four criteria:

- In need of rehabilitation
- No construction for six months
- Tax delinquent one quarter
- A nuisance as defined by N.J.S.A. 40:48-2.3

Can be residential or commercial (special provision for mixed-use buildings)

Property **DOES NOT** have to be located in an area designated as being in need of redevelopment

Does not apply to vacant lots

# Creating the Abandoned Property List

Adopt an ordinance

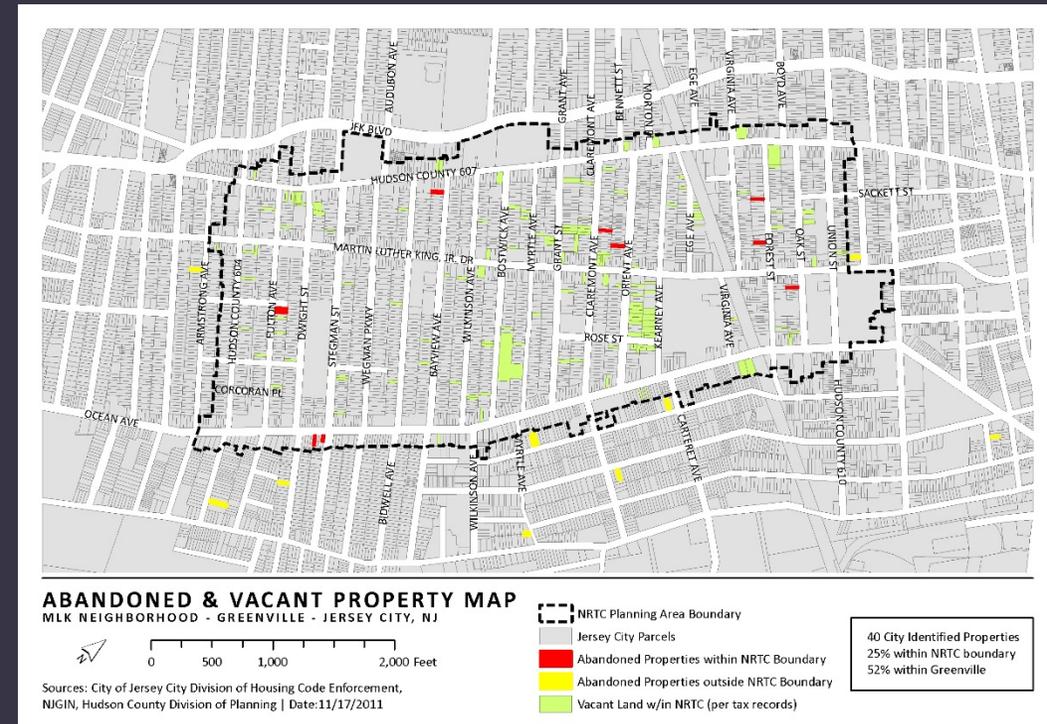
Designate a public officer

Compile the list (do not have to include everything)

Publish list and notify owners

Give owners opportunity to appeal listing

Once these steps have been followed, the abandoned property list is in effect



# The APRA Toolkit – Special Tax Sale

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## Differs from standard tax sale:

- Not open to general public
- Owner of tax lien can foreclose immediately

## Municipality can set eligibility requirements for bidding:

- Can require bidders to submit a rehabilitation plan, document their qualifications, provide evidence of track record
- Municipality can require commitment from bidder to rehab property consistent with municipality's plans and regulations
- *Right of Reverter*: Municipality can assign tax lien to another qualified rehabilitation entity should successful bidder fail to complete project



# The APRA Toolkit – “Spot Blight” Eminent Domain

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Far more surgical and specific tool than the original

Allows municipalities to acquire scattered site properties on the AP list at little or no cost

Appraiser must determine the full cost of property (hard and soft costs) to either:

- A) rehabilitate property
- B) demolish and construct a new building



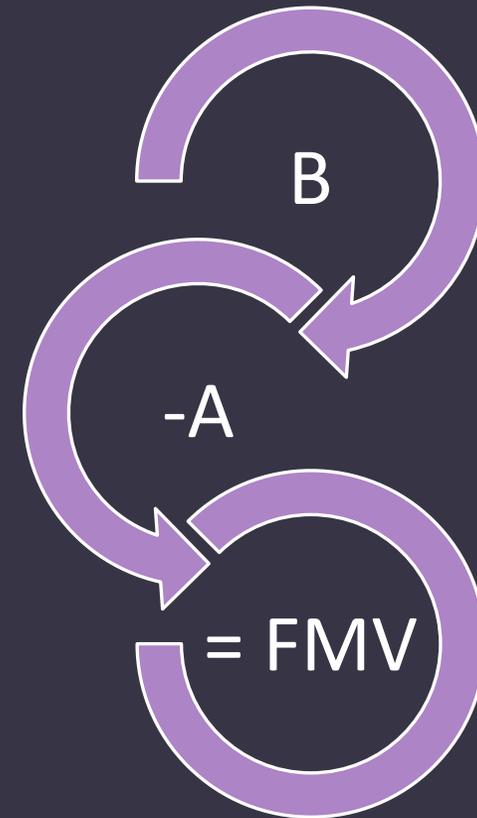
# “Spot Blight” Eminent Domain – Valuation Methodology

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Appraiser must determine cost to rehabilitate property – or demolish and build new, if rehabilitation not feasible (A).

Appraiser must determine value after rehabilitation (B).

If (A) is greater than (B), “There shall be a rebuttable presumption...that the fair market value...is zero.” (NJSA 55:19-102)



## Quiz Question #2

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# Vacant Property Receivership

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Enacted through the Multi-family Housing Preservation and Receivership Act (P.L. 2003, c. 295)

Empowers municipality to rehabilitate and reuse vacant property, versus using demolition

Especially applicable to historic properties and properties that contribute to the character of a neighborhood

Municipality or designated entity initially gains possession of *property*, but not *title*.

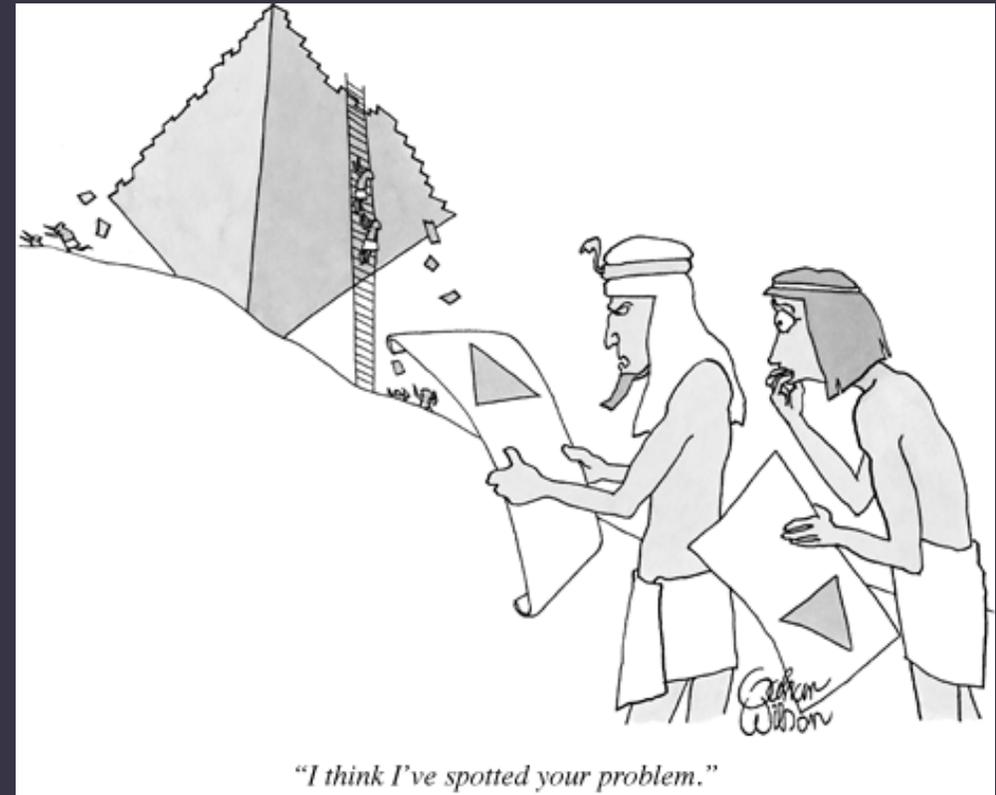


# Procedure for Vacant Property Receivership

Municipality or designee files order of possession in superior court to gain control of property for the purpose of rehabilitation.

Municipal designee must be a *qualified rehabilitation entity* (QRE) and must be able to submit a rehabilitation plan for the property.

Court must give owner **and lienholder** opportunity to submit their own plan to rehabilitate the property.



# Procedure for Vacant Property Receivership

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If owner or lienholder fails to submit rehabilitation plan, and if QRE plan is approved, then municipal designee is given control of property

Upon completion of rehab plan, the QRE files a Notice of Completion with the court

Owner is given opportunity to regain control of property by making all parties whole. Must pay:

- All outstanding liens on property
- All costs incurred by the municipality and entity

If owner fails to regain control of property, title is conveyed to QRE.

# Vacant Property Registration

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Authorized by the police power granted to municipalities by the New Jersey Constitution and by extensive NJ case law

Municipality creates Vacant Property Registration Ordinance (VPRO)

Requires owners of vacant buildings to register property with municipality

Municipality can charge fees, including an escalating fee structure, when the property is registered as vacant

Ordinance can establish standards for maintaining vacant properties



# Vacant Property Registration - Benefits

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Creates added incentive for landlords to put vacant property back into productive use.

Revenue from fees can be used to support code enforcement and other property stabilization strategies.



# Maintaining Vacant Properties in Foreclosure (P.L. 2014, c.35)

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Enabling legislation signed into law March 2014.

Requires out-of-state creditors to designate in-State representative and to maintain the exterior of vacant residential properties, including boarding and securing of property.

Failure to appoint an in-State representative incurs a fine of \$2,500 for each day of the violation.

Failure to maintain the property incurs a fine of \$1,500 for each day of the violation.

At least 20% of revenue collected under the law must be used for municipal code enforcement purposes.

# Quiz Question #3

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# Contact

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