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Fixing Blight

Oakland plans to completely overhaul its blight enforcement division, but will the reforms work?

By Laura Hautala

Anisa Moore-Williams hated to see the cars piling up in the vacant lot across the street from her house. So she called Building Services, the city division that handles blight in Oakland, and made a complaint. She talked several neighbors into complaining, too. “Pretty soon, people could see that, okay, they’re picking up cars,” Moore-Williams said. It was the first step in a decade-long battle to get the lot cleaned up.

But soon after the cars were gone, the lot’s owner drove his rusted Chevy van onto the lot and lived out of it. Then he began pushing shopping carts onto the property; at one point Moore-Williams counted 28 of them. Next, the neighbor started scavenging garbage cans from foreclosed houses and dragging them to the lot. Moore-Williams said she realized at the time her neighbor was mentally ill. Neighbors tried to buy the property from him, but he wouldn’t sell.

The property was more than an eyesore to Moore-Williams, who has witnessed waves of drug-dealing and prostitution crop up around abandoned and badly kept properties in her neighborhood. An abandoned lot could attract squatters or serve as a tempting avenue for drug dealers who want to move between blocks while evading police, she said.

So Moore-Williams, an Oakland native who’s lived in her West Oakland home for more than twenty years, made it her mission to keep the lot clean. When a new pile of junk appeared on the lot, she and her neighbors would complain to Rich Fielding, an inspector at Building Services. “Rich Fielding would send him a nice little letter, then they would disappear,” Moore-Williams said of the junk piles.

Eventually, only the van sat on the lot, its tags pointed away from the street so that inspectors can’t tell whether the registration had expired. “It took over a good ten years,” Moore-Williams said of her efforts to clean up the lot. “Probably longer.”

Moore-Williams has become a neighborhood crusader. She’s taken on abandoned, unkempt, and unsafe properties on her block and beyond. In the process, she’s seen how challenging it can be to maneuver through Oakland’s bureaucracy, even on its best days. Moore-Williams said Building Services needed constant prodding from her to take action on the lot near her home. She got results, she said, “because they got tired of hearing from me.”

That’s why she’s keen to see what will come of the city’s complete redesign of the Building Services division. The program is slated for a total makeover that the Oakland City Council may begin debating this month. The changes come in the wake of a scathing report from the Alameda County Civil Grand Jury released in July 2011 that found evidence of corruption in the Building Services division, as well as the use of excessive fines and a nearly non-existent appeals process for property owners. Shocked by these and other practices they found, the grand jury members wrote that they were “appalled.”

The extensive review being conducted by the office of Oakland City Administrator Deanna Santana may eventually reshape the division’s approach to blight, moving it away from a system that relies almost entirely on complaints from people like Moore-Williams — and the use of hefty property fines — toward a more holistic

approach to cleaning up neighborhoods that would rely more on preventative efforts from Building Services and collaboration with other city departments.

The proposed reforms have won praise from some critics of Building Services, but it remains to be seen whether they will work. For example, it's extremely uncommon for cities to tackle blight without relying on complaints from residents. Administrators from building inspection departments in San Jose and San Francisco, two cities that the grand jurors compared to Oakland in their investigation, contend that their code enforcement departments could not function without complaints. There's also the question as to whether the overhauled program, which may move away from costly fines and liens, will become yet another financial drain on the cash-strapped city.

For Oakland residents like Moore-Williams, the stakes are high, and she is eager to see if the revamp of Building Services will allow neighborhood activists like her to continue addressing blighted properties that attract drug sales and violence.

The definition of blight fills out a lengthy chapter of Oakland's municipal code. It ranges from the simple offense of overgrown plants to an abandoned building that squatters have gutted and set up as a drug house. The longtime goal of Oakland's Building Services division is to deal with all of these kinds of blight, regardless of severity. But this practice has caused bitterness from some property owners who feel they've been charged excessive fines for minor infractions, like leaving their garbage cans in the driveway too long.

It's hard to say exactly when a badly kept property turns from an eyesore to something more troubling. What Moore-Williams knows is that property covered with garbage and graffiti can foster crime. "That starts the illegal activities, like drugs, or prostitution," she said.

Leila Moncharsh, an attorney who has worked with Moore-Williams and other Oakland residents to improve their neighborhoods, agrees that abandoned buildings set the scene for crime. An abandoned property often attracts squatters, who strip copper and other valuable metals from the house, or use the property for drug dealing. And when squatters stay in the house, things get ugly. "The water will get turned off, so the toilets won't work," Moncharsh said. "They start using other ways to get rid of their excrement, like putting it in a bucket in the back yard, or even in the house." Next, Moncharsh said, "crime goes right up ... Sites erupt, the drug dealing escalates, and then we end up with a shootout."

Clearly, not all blighted buildings lead to neighborhood shootings. But in a city that battles drug dealing and gun violence with an increasingly limited police force, cleaning up properties that set the scene for these activities could go a long way toward making the city safer. From Moore-Williams' perspective, the challenge is clear: "How do we get drug dealers to not think this is a place they want to be?"

With homeowners continuing to feel the crunch of the recession, more and more abandoned properties are sure to line Oakland's streets. With over 3,300 foreclosed properties, the city's foreclosure rate was more than double the national average in late 2011, according to the real estate service RealtyTrac.com. In the city's efforts to clean up 2,800 foreclosed properties, almost a fifth of the foreclosures were blighted. That's why the current problems in the city's blight abatement program are so crucial to residents, and why the success of reforms is so important.

As it currently functions, the city's code enforcement division relies on complaints from neighbors to find blighted properties. In the 2010-11 fiscal year, there were more than 8,500 such complaints in Oakland, leading to over 30,000 inspections.

A property is often subject to multiple inspections generated by just one complaint. The Building Services division looks into the complaints, and then uses a combination of inspections and fees to coax property owners into action. After finding one or more city code violations on the property, the inspector is supposed to send a notice to the owner — who might be a homeowner, a landlord, or increasingly, a bank. The owners then have between thirty and sixty days to fix the problem. If they miss the deadline, the city will send out a contractor to do the job for them. The city charges the property owner a fee for this service, and the fee turns into a property lien if not paid in seven days.

This process, however, has been plagued by serious problems. The Alameda County Civil Grand Jury, made up of private citizens whose job is to investigate government agencies, detailed a series of abuses in Building Services in a report released last July. Oakland property owners testified to the grand jury that when they tried to contest citations, the inspector who cited them (or that inspector's direct supervisor) denied the appeal instead of letting someone outside the department look at the matter. Some owners said that contractors came to clean up their properties before the deadline to fix it, resulting in expensive liens. The grand jury report didn't say whether these breached deadlines seemed to be intentional attempts at fine generation by city inspectors, but the practice has led to suspicions and hard feelings on the part of property owners.

What's more, the grand jury investigation looked into the division's history of corrupt contracting practices. A review of the code enforcement contracts with cleanup companies by this reporter confirmed what the panel members found: a disproportionate percentage of high-value contracts went to a company owned by Oakland business owner Arthur Young, whose debris removal company competed with a short list of other contractors in a short bidding process that differed from that of other city departments. City documents show that while he won over a third of contracts awarded in the fiscal years between July, 2006, and June, 2011, Young pulled in more than half the money paid to contractors during that time.

The *Oakland Tribune* reported in September that Young had been married to the sister of Building Services inspection manager Antoinette Renwick. Oakland resident Michelle Cassens, whose complaints about Building Services helped prompt the grand jury probe, had pointed out a relationship between Renwick and Young as far back as 2010. Cassens also had noted that Renwick had received a \$50,000 loan from Young.

Renwick resigned in October, 2010. The grand jurors reviewed evidence that they said confirmed the relationship, and said the contracts created a "perception of impropriety" at Building Services.

City Councilwoman Jane Brunner and other public officials have demanded that city staff find a way to strengthen the conflict of interest policy in the Building Services division, which forbids relationships with contractors who have personal ties to staff but apparently didn't flag the relationship between the contractor and the building inspection manager.

These bad practices, meanwhile, have been compounded by a perception that Building Services is out solely to make revenue for the city. Homeowners like Cassens and her husband Gwilym Martin also have contended that the fines and liens levied by the city amount to more than the cleanup costs. Cassens and Martin have dug for evidence of bad behavior from Building Services since they fought against the division's order to demolish their West Oakland home in 2009. They detail their efforts publicly on their website at AuditOaklandCeda.com, and Martin is currently suing the city for allegedly illegal fines generated by code enforcement in all of their property inspections; in the suit, he contests the idea that the fines reflect the actual cost of cleanup work. In court documents, Martin and his lawyer John Caassen call the collection of these fees "unconscionable" and "illegal on its face."

But the perception that Building Services is just out to make money for the city doesn't take the division's actual finances into account. According to the city administrator's office, the Development Services Fund, a cost-recovering fund that includes all revenue from Building Services, lost about \$8.4 million since the 2006-07 fiscal year. Last fiscal year, the fund barely broke even for the first time since 2007, bringing in about \$880,000.

Nonetheless, city staff has been designing reforms that move away from neighbors' complaints and revenue generation, in part because of the public perception that the city is just out to make money. The reform plan creates a group of proactive inspectors that focus on a few key priorities of the reformed Building Services division. "The goal of the new program design is for code enforcement to focus its regulatory activities on priority community revitalization issues," a September, 2011 report from the city administrator reads.

The effort to design these programs is expansive. First, a private consulting firm called Management Partners has looked at how fees are structured and complaints are resolved — essentially the best practices angle on reform. For the goals of addressing larger Oakland problems like mold and other asthma irritants, as well as decrepit apartment complexes, an Oakland-based public policy firm Public Health Law and Policy is working pro bono with the county public health department.

In an effort to get feedback on the suggestions that result from all of these efforts, city staff are taking the proposed changes to a task force made up of Oakland property owners and tenants, as well as professionals from government and the real estate business. The task force is reviewing the ideas for reform now, and their feedback will be included when the City Administrator's Office takes the plan to the council later this spring.

So far, the resulting plan emphasizes proactive enforcement, which would be a sea change from code enforcement's current practice of only reacting to complaints. This approach would charge a majority of the department's inspectors with addressing problems like slum conditions in multi-unit family housing units, as well as public health problems like mold and lead exposure, said Margaretta Lin, deputy city administrator. "We are focusing primarily on aligning our code enforcement for being a vehicle or tool of addressing those problems," Lin said.

Lin's office has roughly sketched a more holistic approach to building services that will send inspectors for proactive inspections and coordinate referrals with other existing city agencies. For example, the plan to address decrepit, larger apartment buildings would create a new rental inspection program within the Building Services Division. This plan would also try to develop a "pipeline" of referrals from the fire and police departments, the rent adjustment board, and community legal services that often work with renters. Inspectors would also perform proactive inspections in key commercial areas in the city, as well as focus more closely on blighted foreclosed properties and properties that may be sources of lead poisoning and asthma irritants.

Lin's department is also looking at the public safety threats caused by abandoned properties and squatters, and proactive inspections and coordination with the police department are being planned for this type of property as well. But unlike the other proactive inspections, these will be primarily focused on the areas that Mayor Jean Quan has singled out as Oakland's most needy in her 100-block plan, which funnels city resources to those regions.

The holistic approach Lin outlines may well be merited. As Anisa Moore-Williams knows, blight is a symptom of a larger problem. "It's definitely connected to poverty." But Moore-Williams said she's concerned this will lead to feelings of bitterness from neighborhoods that don't fall within the 100 blocks. "The rest of Oakland goes, 'What about *this* neighborhood?'" she said of past initiatives that have focused on particular neighborhoods. "Your neighborhood is just as important as my neighborhood."

And code enforcement won't ultimately solve the thorny problem of squatters on its own. Moore-Williams relied on police to have squatters removed from her neighborhood. She feels for the people who squat in empty buildings; many of them used to live in the neighborhood, she said. "But now they don't have any place to be. They were incarcerated, and when they came out, everybody's gone," she said.

It's not clear how the city will pay for a program that's more focused on social issues than revenue generation. The reforms aim to reevaluate the amount of fines that code enforcement can charge as the division launches a potentially costly community improvement campaign. The proactive inspection plan has five parts, and only two have some promise of built-in funding so far. "The short answer is, we don't know partly what the fiscal impact will be," Lin said. "We are looking alternatively and creatively around what's going to pay for all these activities." In its current planning phase, no exact estimates of cost to the city have been given. Rather, planners have focused on the nature of services the new approach will provide.

If city council approves the reforms this spring, Building Services will have a year to try out the changes and see both how they work in the community and how expensive they are. "The test is in the practice," Lin said.

In addition to putting revenue on the backburner, the proposed reforms move away from using complaints to identify blight. Currently, the system depends heavily on complaints to find and cite blighted properties, and these lead to citations and fines, which is the most effective way the city currently has to pay for code enforcement.

The most common complement to a complaint system is a registry for vacant or foreclosed buildings, which tracks the banks that own the properties so the city can keep

them accountable for any problems. But registries almost always work better when complaints are also a major focus, according to building inspections experts from other cities.

San Francisco's building inspection department started a vacant building registry in 2009, requiring owners of vacant properties to register, pay a fee, and pass an inspection of the building's upkeep. But even though the registry has helped San Francisco find and cite blighted properties, "we still rely—and have always relied—on the complaint process for people to let us know whether there might be a vacated or abandoned property," said Bill Strawn, a spokesman for San Francisco's Department of Building Inspection.

If San Francisco had to work without complaints, "that would certainly make it more difficult," Strawn said. "It stands to reason to me that someone living next door to a building that might be abandoned has a much stronger incentive to let the building department know about it than whatever random effect we would have looking for one. I don't think that would be as cost effective or as efficient as what the complaint system is."

Mike Hannon, a code enforcement official in San Jose, had similar thoughts about his city's foreclosure registry. The registry has been very successful in getting banks to keep up properties once they've been entered into the system, Hannon said, but "in all honesty I need the community to let me know. They're the ones that are going to be impacted."

However, critics of Building Services say the complaints system can devolve into neighborhood feuds, and some egregious cases bear this out. The grand jury heard testimony about a case in which an Oakland resident was given blank Building Services citations sheets and wrote up a neighbor for plants that allegedly blocked the sidewalk. Even though the infraction was minor, and not written up by a real inspector, the complaint led to real city citations and a drawn out appeals process.

Beyond neighborhood feuds, many Oaklanders have complained that minor infractions simply should not lead to fines worth thousands of dollars. Reformers in the city have heard these concerns; Lin says that fines have not been entirely fair. "The complaint-based nature of Oakland's code enforcement operations combined with cost recovering requirements have meant that property owners interacting with code enforcement have faced relatively high charges," Lin wrote in an email.

Still, Lin said, the city wouldn't do away with complaints completely. Instead, complaints will be sorted into different priority levels. "The complaints that come in that hit the top priorities for the city will get top priority for inspection," Lin said. Previously, the division's policy was to treat each complaint as equally important. For minor infractions, Lin's department is now considering a "courtesy notice" system. An inspector would send a letter to the property owner explaining that the city has received a complaint about a code violation, and that the city might take action in the future.

But this reform worries Moore-Williams the most — that she might be left unheard if staff is less focused on complaints. "There's only so much a person could do with not enough staff," she said.

From a crime fighting perspective, Moore-Williams would like to see more nosy neighbors, not fewer. "We also need to be participants in that," she said, "not just say, 'You should fix this.'" Neighbors should be offering the city "suggestions on how, and

what's happening, and really be involved," she said.

One aspect of the proactive inspections that Lin says does have the potential to cover its own costs is the effort to crack down on blighted, foreclosed properties that are owned by banks. This is a pet project of at-large city Councilwoman Rebecca Kaplan, who has frequently argued that it's time to hold banks accountable for their neglect of foreclosed properties.

"There are banks and large investment conglomerates that, through foreclosures, through predatory loans, and through sleazy banking practices have come to acquire thousands of properties in Oakland, which they do not upkeep," Kaplan said at a city council meeting last fall. "They make more profit by not bothering to upkeep those properties."

However, a closer look at the numbers shows that fines won't be that high on banks that foreclose on blighted homes. The proactive inspection plan would intensify code enforcement's current focus on bank-owned buildings by looking at banks one at a time, and asking them to account for all foreclosed properties they hold in Oakland.

Since July, 2010, the city's foreclosure registry has already pulled in almost \$1.3 million to the Development Services Fund, the cost-covering fund that Building Services pays into. But most of the money came from foreclosure registration fees, not from blight inspections. Blight violations only brought in about \$330,000 in collected fees. In contrast, the overtime payments accrued by city employees who maintain the registry came to \$256,500.

Lin says that's the idea. "The hope is there will be much less blight violations," she said, and "much more accountability."

But the biggest obstacle to cracking down on blighted foreclosed properties is that banks are legally required to keep up only a small portion of Oakland's foreclosed properties. About 82 percent of the city's more than 3,300 foreclosed homes are still in the default or auction stages of foreclosure, according to RealtyTrac.com, which means the city can't charge the bank fines or cleanup fees.

"There's a pretty significant problem with blight on those properties and the banks are not taking responsibility," Lin said. "And legally, they don't have to."

Lin is creating a proposal under direction of the city council that would change Oakland law so that Building Services can go after banks to keep up these pre-foreclosed properties, whose owners have often lost interest in caring for them. "The owners live there, but they're just disconnected," Lin said.

In the case of Moore-Williams' neighborhood in West Oakland, it's the involvement of neighbors that has kept abandoned houses from falling into the hands of drug dealers. Moore-Williams gets to know all her neighbors and helps organize a street party for National Night Out every year. If she drives to work, she makes sure to swing past industrial areas of her neighborhood to make sure garbage isn't piling up on the streets.

She says she's been threatened by people who'd like her to stop cleaning up the neighborhood, but says she's not scared. "They put nails in my tires," she said, but "it's just a nail."

Moore-Williams also keeps close tabs on city government. On a recent Saturday, she flipped through her Blackberry messages for alerts from her District 3 council

member, Nancy Nadel. Since Nadel has decided not to run for reelection this year, Moore-Williams wants to bring up her concerns over the Building Services reforms to a couple of potential candidates she knows.

If the city can't dedicate as many resources to fielding complaints from her neighborhood, Moore-Williams said she's ready to do even more of the work herself. "It will really mean we'll have to get in it," she says. "We'll have to clean the streets — be vigilant — so our neighborhood can remain like this."

Not all neighbors will have the time or energy to pitch in. But Moore-Williams — along with all the residents, city staff and community activists invested in improving Building Services — know it's not for lack of caring. "It's really sad that people think just because folks live in West Oakland, that they don't care about their block or their neighborhood," Moore-Williams said, "because it's just the opposite."