

State of Connecticut
 Department of Administrative Services
 Department of Construction Services
 Office of Education and Data Management

*Office of Education and Data Management
 Fall 2016 Career Development Series*

Unsafe Structures and Vacant Buildings

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This presentation uses and where applicable updates many slides from the Spring 2010 OEDM class

Vacant Buildings

With permission of and thanks to Henry Paszczuk, State of CT, formerly of the OEDM.

Link to Vacant Building presentation:
http://www.ct.gov/dca/files/dca/office_of_education_and_data_management_files/sp_10_vacant_buildings.pdf

Overview - Unsafe Structures and Vacant Buildings

- Target properties
 - Concepts
 - Enforcement procedures
- Code Requirements
 - 2016 State Building Code
 - 2016 State Fire Safety Code
 - 2015 State Fire Prevention Code

Target Properties

- Secure and well maintained properties are not the problem
- Problem properties
 - Vacant
 - Dilapidated
 - No available owner
 - Unsecured
 - Accessible



The Problems

- Fire Fighters are more likely to be injured fighting fires in vacant properties than any other property type
 - More than 4500 fire fighters injuries every year
 - From 1998 to 2007 - 15 fire fighters died while operating at fires in vacant/idle properties



The Impact on the Community

- Crime
- Safety
- Community image
- Financial

Abandonment is a contagious phenomenon



The Vacancy Progression



Owner: Responsive
Uninhabited
Secure



Owner: Unresponsive
Uninhabited
Open to Unauthorized Entry



Owner: Absentee or Unknown
Building Deteriorating
Open to Unauthorized Entry



Least ➔ Greatest

DETERIORATION

Hazard to Public Safety


Greyfields – An Emerging Issue

- Vacant or under utilized commercial structures
- Former Big Box type stores that are left vacant when the retailer moves to a larger or more modern property
- Typically are protected by sprinklers – that may not be maintained during vacancy
- Large unused parking area
- Large loading dock area that is not visible from street

Early Warning Signs

- Previous fires
- Nuisance activity
- A history of back taxes
- Unabated housing code violations
- Unreleased liens and attachments
- Building owner with a history of violations or abandoned properties
- Increasing vacancy in multi-tenant properties



Dealing with the Problem

- Evaluate vacant and abandoned structures
- Identify properties with a potential for abandonment
- Determine the magnitude of the problem
- Aggressive code enforcement to prevent deterioration
- Interdepartmental cooperation



Interdepartmental Cooperation

- City Manager/Mayor
- Community Development
- Building Inspector
- Fire Department
- Police Department
- Assessors
- Town Attorney
- State's Attorney



Without the involvement of these departments or individuals, at a minimum, it will be difficult to deal with the problem

Securing Buildings

- The objective is to prevent unauthorized access
- Must be done well
- Slows down deterioration of the structure
- Security = Fire Prevention



Building Evaluation

Objectives

- Determine that the building is secure
- Identify hazards that require immediate corrective action
- ✓ Evaluate the fire growth potential
 - Exposure fires
 - Available fuel packages
 - Compromised fire barriers
 - Location and type of hazardous materials on site
- ✓ Evaluate the potential for structural collapse
- ✓ Identify conditions that will be hazardous to fire fighters in the event of a fire



Abatement (Fix It)

Are there conditions that should be remedied ?

- Significant fire hazards
- Lack of security
- Trash accumulations
- Life safety hazards
- Potential for collapse



Unsafe Structures and Vacant Buildings

• 2016 CT State Building Code (SBC), cont.

- Section 116 Unsafe Structures and Equipment
 - 116.1 Conditions
 - 116.2 Record
 - 116.3 Notice
 - 116.4 Method of service
 - 116.5 Restoration

SBC 116: Unsafe structures and equipment



- The BO shall deem structures or equipment an unsafe condition which are or become:
 - Unsafe
 - Insanitary
 - Deficient because of inadequate means of egress, inadequate light and ventilation

SBC 116: Unsafe structures and equipment, cont.



- Can constitute a fire hazard
- Or are otherwise dangerous to human life or public welfare
- Or that involve illegal or improper occupancy or inadequate maintenance.

The BO shall cause a report to be filed on an unsafe condition. SBC 116.2


SBC 116: Unsafe structures and equipment, cont.

- The unsafe structure shall be taken down and removed or made safe, as the BO deems necessary.
- A vacant structure that is not secured against entry shall be deemed unsafe. Enforcement of this provision can be a tremendous help to community safety.




SBC 116.3
Notice of Unsafe Structure.

- If an unsafe condition is found, the **BO shall serve** on the owner, agent or person in control of the structure a written notice that describes the condition and specifies the abatement required, or demolition within a stipulated time.
- Requires the person notified declare immediately to the BO acceptance or rejection of the terms of the order.




SBC 116.4
Method of service

- The unsafe structure or equipment order is deemed properly served if delivered to owner personally, sent certified or registered mail at last known address return receipt requested, or any other manner prescribed by law.



Delivery:

- Although proof of delivery is not specifically required by the SBC, prosecution of a violation requires that the state prove the person knowingly violated the provision of the code.
- Proof of delivery is required to prove knowing violation of the order.



Proof of Service:



- Service is an *essential element* that we must prove in a criminal prosecution. It must be proved with documentation.
- Service must be in accordance with the code provision. If not particularly proscribed, service can be by other provable method.




SBC 116.6.1 Authority to seal equipment.

- The BO or his authorized representative shall in case of emergency have the authority to seal out of service immediately any unsafe equipment or device regulated by the SBC.
- The BO or his representative shall plainly identify it as out of service and indicate the reason.

Emergency Measures

- **2016 CT State Building Code (SBC), cont.**
 - Section 117 Emergency Measures
 - 117.1 Imminent danger
 - 117.2 Temporary safeguards
 - 117.3 Temporary closings
 - 117.4 Emergency work
 - 117.5 Cost of emergency work

SBC 117
Emergency Measures




- **Imminent danger of failure or collapse** of a building or structure or any part thereof which endangers human life, or
- **Has fallen and human life is endangered** by the occupation.
- BO is authorized and empowered to order and require the occupants **vacate** forthwith.

SBC 117
Emergency Measures.

- The notice **shall** read: “This structure is unsafe and its occupancy has been prohibited by the building official.”
- The notice **shall** be posted at each entrance of the building or structure.
- Entry after posting is unlawful without BO permission which may be granted for purposes of required repair or demolition.

SBC 117
Emergency Measures



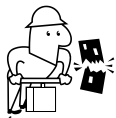
- SBC 117.2 **Temporary safeguards.**
When in the opinion of the BO there is imminent danger to human life due to an unsafe condition, the BO **shall** cause the necessary work to be done to render such building or structure temporarily safe, whether or not the legal procedure described in Section 116 has been instituted.

SBC 117.4
Emergency work.

- When imminent danger or an unsafe condition requiring immediate action exists and the owner cannot be located or refuses or is unable to expeditiously render the premises safe, the BO shall order the employment of necessary labor and materials as expeditiously as possible to make the premises temporarily safe up to and including demolition.

CONDEMNATION:

- When it has been determined the building is no longer safe to occupy a condemnation order is issued, the Uniform Relocation Act applies.
- The occupants relocation costs **MAY** recouped but as permitted under state law.
- May be ordered where necessary to protect life safety in cases of emergency.



SBC 117.5
Costs of emergency work.

- The costs incurred in performance of emergency repairs or demolition under the order of the BO shall be paid by the treasury of the town, city or borough.
- The legal counsel for the town, city or borough shall institute appropriate action against the owner to recover.



Section 118 Vacant Buildings

- **2016 CT State Building Code (SBC)**
- Section 118 Vacant Buildings
- – 118.1 Temporarily unoccupied buildings
- • Buildings awaiting future reuse must be maintained
- – 118.1.1 Abandoned premises
- • Owner cannot be located
- • Unprotected
- • Unsecured
- • Occupied by unauthorized persons
- • Present danger of collapse
- • Fire hazard to adjacent properties

Section 118 Vacant Buildings

- **2016 CT State Building Code (SBC), cont.**
- Section 118 Vacant Buildings
- – 118.2 Safeguarding vacant premises
- • Temporarily unoccupied
- – 118.2.1 Security
- • Boarded, locked, or fenced to prevent entry
- – 118.2.2 Fire Protection
- • Maintained operable
- – Exceptions
- » buildings free of combustibles
- » Building which do not pose a hazard
- • FMO opinion
- » Fire protection rendered 'dry'

Section 118 Vacant Buildings

- **2016 CT State Building Code (SBC), cont.**
- Section 118 Vacant Buildings
- – 118.2.3 Fire Separation
- • Separation of vacant spaces by construction
- – 118.3 Removal of combustibles
- • Trash & hazmat must leave vacant areas
- • Exceptions
- – Alterations, repairs, change of occupancy
- – Seasonal closings
- – 118.4 Removal of HazMats
- • To be removed

CFPC

- **2015 CT State Fire Prevention Code (CSFPC)**
 - Section 10.13 Vacant Buildings and Premises
 - 10.13.1 General
 - 10.13.1.1 Abandoned Premises
 - 10.13.2 Safeguarding Vacant Premises
 - 10.13.2.1 Security
 - 10.13.2.2 Fire Protection
 - 10.13.3 Removal of Combustibles
 - 10.13.4 Removal of hazardous materials

Unsafe Structures and Vacant Buildings

- Two types of building categories for the CSBC & CSFPC
 - Abandoned Premises
 - Vacant Buildings & Premises

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements
 - General
 - Temporarily unoccupied buildings, structures or portions there of including tenant spaces shall be safeguarded and maintained per this section

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements
 - Abandoned Premises
 - Buildings for which a building owner cannot be identified or located by certified mail to last known address
 - Which persistently or repeatedly become unprotected

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Abandoned Premises
 - Which have been occupied by unauthorized persons or for illegal purposes
 - Which present a danger of structural collapse or fire spread to adjacent properties
 - Shall be considered abandoned

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Abandoned Premises
 - Declared unsafe
 - Abated or demolished per these codes

Unsafe Structures and Vacant Buildings

- Abandoned buildings
 - Municipal issue
 - Code officials
 - Corporation Council
 - Other municipal officials/leaders
 - CGS 49-73b Municipalities authorized to recover expenses
 - Due diligence prior to **irreversible actions** being taken

Unsafe Structures and Vacant Buildings

- Abandoned buildings
 - The intent of these codes are to render abandoned buildings safer
 - The following abatement actions apply to abandoned buildings (Mothballing)
 - Safeguarding Vacant Premises
 - Removal of Combustibles
 - Removal of Hazardous Materials

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Safeguarding Vacant Premise (Mothballing)
 - Temporarily unoccupied buildings will be secured and protected
 - Security - exterior and interior openings accessible to other tenants or unauthorized people shall be
 - » boarded
 - » locked
 - » blocked
 - » otherwise protected
 - » to prevent entry by unauthorized individuals

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Fire Protection - fire alarms, sprinklers and standpipe systems shall be operable at all times
 - Exception 1
 - Premise cleared of all combustable materials/debris
 - In the opinion of the code official if the following do not create a fire hazard
 - » Type of construction
 - » Fire separation distance
 - » Security

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Fire Protection
 - Exception 2
 - No heat freezing temp., fire alarm and sprinkler system are permitted to be placed out of service, and standpipes maintained as dry provided building has no contents or storage and windows, doors and other openings secured

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Fire Separation
 - Fire rated partitions, barriers, and fire walls separating vacant space from remainder of the building shall be maintained

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Removal of Combustibles
 - Persons in charge of a vacant building or portion of shall remove all combustible materials and flammable/combustible rubbish from space and secure openings to prevent entry by unauthorized persons

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Removal of Combustibles
 - Exception 1 - buildings undergoing repair, alteration, or addition under a valid permit per this code
 - Exception 2 - seasonally occupied buildings

Unsafe Structures and Vacant Buildings

- CSBC & CSFPC Requirements cont.
 - Removal of Hazardous Materials – owner/ person in charge of a vacant building or portion of remove all accumulations of hazardous materials as defined by this code

BE CAREFUL IN ADDRESSING THE ORDER



- First obtain the owner name from the deed for the property. Mirror the deed.
- If abating an occupant or other person, be careful to obtain the proper names from a reliable source.
- If a corporation, LLC or general partnership, check the exact name with proper filing authority in your state.

ADDRESSING THE ORDER

Mirror the deed...




- **PERSONS:** example - If deed states the grantees (owners) are John Owner and Lilly Owner, order should have both full names.
 John Owner
 Lilly Owner
 123 Owner's Court
 No Name, CT 06000*

*One order is generally sufficient for multiple owners only if owners live at same address. Check with your local prosecutor for these matters.

ADDRESSING THE ORDER

- **ESTATES:**
 - The deed may contain the name of a person who is deceased, or their estate.
 - Check with the Probate Court to determine the person responsible for the estate of the deceased owner. (i.e. Executor or an heir).
 - Get certified copy of appointment document.
 - Cite responsible person for the estate.
 - Consider circumstances



CORPORATIONS, LLCs, THEIR AGENTS AND CRIMINAL LIABILITY

- **Corporations and their agents may be held liable for their acts including failure to comply with an order of a code official.**
- **Example: Connecticut General Statute Sec. 53a-11. Criminal liability of an individual for conduct in name or behalf of corporation or limited liability company.** A person shall be criminally liable for conduct constituting an offense which such person performs or causes to be performed in the name of or in behalf of a corporation or limited liability company to the same extent as if such conduct were performed in such person's own name or behalf.

CORPORATE AND PARTNERSHIP OWNERS

- CORPORATIONS (Corp.s and Inc.s)
- LIMITED LIABILITY CORPORATIONS
- PARTNERSHIPS
- LIMITED LIABILITY PARTNERSHIPS
 - DOMESTIC (Registered in your state)
 - FOREIGN (Registered outside of your state)



GENERALLY CORPORATIONS DOING BUSINESS IN A STATE MUST BE REGISTERED WITH THAT JURISDICTION'S SECRETARY OF STATE.

Search in the CONCORD system in CT at <http://www.concord-sots.ct.gov/CONCORD/online?sn=PublicInquiry&eid=9740>

STATE LAWS VARY ON LIABILITY OF OFFICERS SO CHECK WITH YOUR LOCAL JURISDICTION

ADDRESSING THE ORDER

Mirror the deed...

- **CORPORATE OWNER (Ex.)**
 - Deed says XYZ, Inc. is the owner.
 - Enter XYZ, Inc. in your search.
 - Identify the principal of the corporation = the PRESIDENT of the corporation.
 - Obtain residence address for service, if available.
 - Print copy of your search page or keep document for your file.

ADDRESSING THE ORDER

Mirror the deed...

- LIMITED LIABILITY CORPORATIONS
 - Deed says XYZ, LLC.
 - Enter XYZ, LLC in your search.
 - Identify the principal(s) of the LLC = any MEMBER or Managing Member of the LLC.
 - Obtain residence address for service.
 - Print copy of your search page or keep document for your file.

ADDRESSING THE ORDER

Mirror the deed...

- CORPORATION (ex.)
 - LLC (ex.)
- | | |
|---------------------|---------------------|
| I. V. League, Pres. | I.V. League, Member |
| XYZ, Corp. | XYZ, LLC |
| 123 Big House Ave. | 123 Big House Ave. |
| No Name, Your State | No Name, Your State |
| 00000 | 00000 |

Questions?

Contact your DCJ Housing prosecutor

Assignments as of 10/2016

- Judith R. Dicine, Supervisory Assistant State's Attorney - Housing**
Ansonia/Milford (Derby GA), Litchfield, Tolland and Windham JDs
(judith.dicine@ct.gov) 203-773-6755
- Patrice K. Palombo, Senior Assistant State's Attorney**
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- Steven M. Lesko, Assistant State's Attorney**
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