

The Impact of Real Estate Investor Activity On the Cuyahoga County, Ohio Housing Market 2004 – 2020

Prepared by the Vacant and Abandoned Property Action Council (VAPAC)

March 6, 2022

“I don’t know why we call them investors. They don’t invest anything. They just extract every dime out of those houses and walk away when they require demolition!” – A local housing advocate.

“The Department of Building and Housing is responsible for regulating fixed objects...owned by invisible people; the most difficult thing we do is find professional magicians...people and companies that intentionally don’t want to be found.” – Cleveland building and housing official.

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Acknowledgements

The VAPAC Investor Working Group would like to thank everyone who listened and thoughtfully provided feedback on this research as it was presented at different stages of progress over the course of approximately two years. Of notable help were discussions during monthly VAPAC meetings, multiple presentations in partnership with the Ohio Fair Lending Coalition, including valuable feedback from their conference planning committee, and two presentations with the National Community Stabilization Trust, one of which was specifically focused on their Middle Neighborhoods Initiative.

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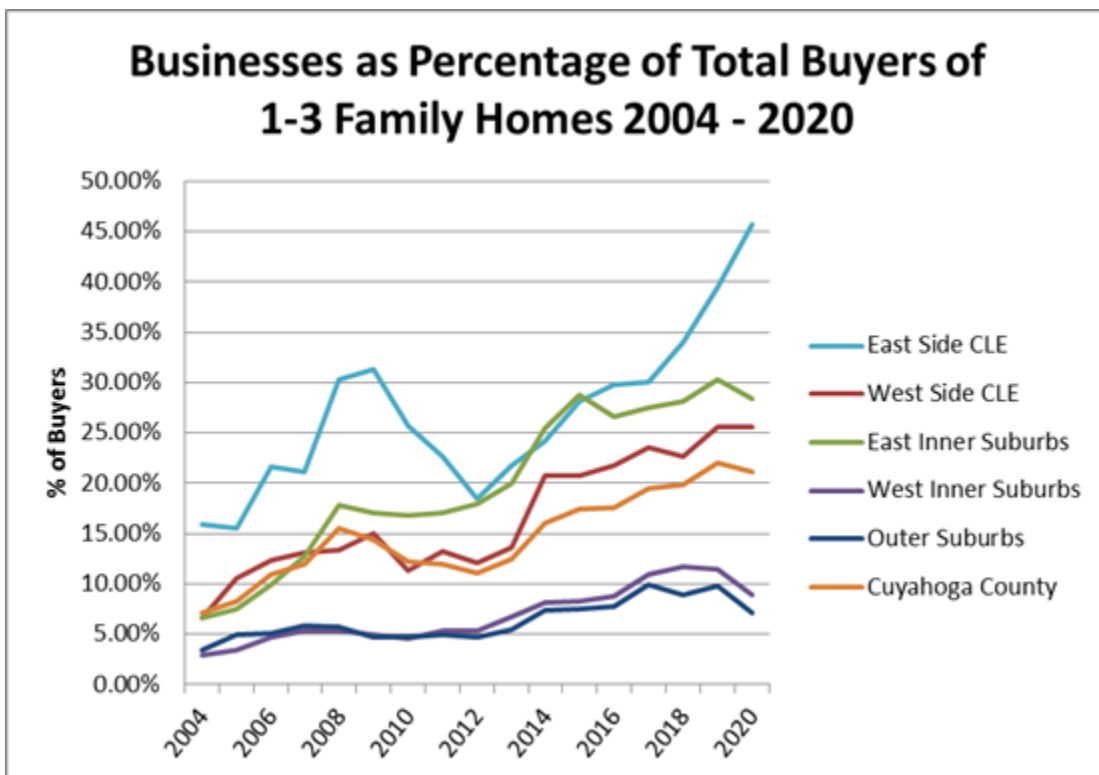
The Vacant and Abandoned Property Action Council

VAPAC was founded in 2005 with a mission of collaboratively bringing together stakeholders to address vacant and abandoned property issues created by the mortgage foreclosure crisis. Over time, in recognition of the dynamic and complex nature of these issues, VAPAC's mission has evolved to encompass housing and housing finance practices that could lead to vacancy, abandonment, and housing insecurity for owners and renters, as well as the negative outcomes that can impact communities and their housing markets. From its inception VAPAC has recognized that these issues have had, and continue to have, a disproportionate impact on people of color communities. Racial justice, equality and racial equity have always been implicit in the work of VAPAC and they continue to be core principles that guide VAPAC's work.

Executive Summary

The Vacant and Abandoned Property Action Council (VAPAC), a coalition of civic and governmental agencies, has been responding to the foreclosure crisis and its aftermath since 2005. In 2017, VAPAC formed an Investor Working Group in response to an alarming increase of reports of property investors engaged in non-compliance with laws and other irresponsible activity. Such activity not only harms communities but also diminishes the reputation of the many investors who are complying with laws and acting responsibly. The Working Group was tasked with examining investor behavior county-wide to spot trends and make policy recommendations intended to preserve neighborhood stability by ensuring responsible property ownership and fostering homeownership and generational wealth building.

A study of local investor behavior from 2004 until 2020, by Timothy F. Kobie, PhD, co-chair of VAPAC's Investor Working Group, serves as the basis for the policy recommendations reflected in this paper.¹ The documented dramatic rise in investors of 1-3 family homes should serve as a wake-up call for policy makers and code enforcement practitioners, as the findings in this paper suggest the need for immediate changes to stabilize neighborhoods and to preserve the homeownership opportunities that provide the foundation for wealth building and financial stability.



¹ Purchasers of 1-3 family homes were identified and designated into one of seven categories: 1) banks, 2) Federal government or Federal government-sponsored entities, 3) properties forfeited to the state of Ohio, 4) land banks or local government, 5) trusts or trustees, 6) individuals, and 7) business forms of ownership, e.g. corporations, partnerships, limited partnerships and limited liability companies (LLCs). While there is anecdotal evidence to suggest that some individuals own multiple properties in their individual name and operate as investors, for the purposes of this paper the term "investor" refers to the business forms of ownership identified in the research classified as some form of corporate entity recognized by Ohio State law.

Key findings

1. For the county as a whole, the **percent of properties acquired by investors nearly tripled from 2004 at 7.17 percent to 21.1 percent in 2020**. The largest increase by percentage points occurred on the east side of Cleveland. From 2004 to 2020, investor acquisitions in the east side increased by almost 30 points. This is nearly a threefold increase in less than twenty years. In fact, in 2020 investor acquisitions in the east side exceeded the total by individual buyers, 45.76 percent to 44.79 percent.

2. **The largest category of buyers on the east side of Cleveland is investors**, which increasingly comprises a host of corporate entities both in- and out-of-state which predominantly elect the limited liability company (LLC) form to conduct business. **The result of this rise in investor-ownership is a housing submarket that is largely rental, no longer controlled by local actors, and with limited opportunities for new home owners** and the associated benefits of stability, health, and wealth building².

3. **The east side of Cleveland had more investor acquisitions than any other type of acquisition, at 46 percent of all transactions** in the submarket. By comparison, the west side of Cleveland and east inner suburbs had approximately a quarter of all transactions as investor acquisitions. Residential property investors are making up a larger and larger portion of the housing market. Municipalities, courts, county government, and other regulatory bodies need to adjust their approach to housing related issues to account for this change in the landscape.

4. A perfect storm of housing market conditions has contributed to the increased investor activity. **Following the foreclosure crisis, home sale prices dropped dramatically – but rents did not drop**. Investors from other parts of the country, indeed from around the world, can pay cash for a \$20,000 - \$30,000 home and collect rents the same as when the home was valued at \$80,000 before the foreclosure crisis. As one investor reportedly said “The streets in Cleveland are paved in platinum, because the houses are so cheap and the rents have never declined”.³

5. As noted above, **investors are buying homes at discounted prices, often with full purchase price paid in cash** and with zero contingencies. Data suggests that these factors largely indicate the purchased homes are in worse condition and require at least some rehab work beyond the scope of minor exterior or interior repairs. **The largest gap between business and individual purchase prices was seen on the east side** of Cleveland.

6. An analysis of permit data for Cleveland suggests that many unscrupulous **east side investors are frequently making a calculated, but risky, assumption that they can purchase a property, make illegal repairs without permits, and/or move tenants in without making any repairs or without complying with**

² Laurie S. Goodman & Christopher Mayer (2018), Homeownership and the American Dream, *Journal of Economic Perspectives*, vol 32-1, Winter pgs 31-58

https://www.urban.org/sites/default/files/publication/96221/homeownership_and_the_american_dream_0.pdf

³ Presentation by licensed appraiser Emily Braman at the April 14, 2021 meeting of the Cuyahoga County Council Reinvestment Subcommittee.

local building and housing ordinances or State law.⁴ By contrast, west side investors are pulling permits more frequently, but still at a lower rate than to be expected based on property conditions. Additionally, **severely distressed properties are only seeing building permit activity on 20 percent of sales**, indicating that those properties are continuing to remain in poor condition. The fact that more repairs are being done consistent with higher standards imposed through a permitting process in predominantly white neighborhoods while permits are ignored in predominantly African-American or other minority neighborhoods is additional evidence of disparate negative impact.

7. Several different archetypes or profiles of investor owners have been shown to be problematic and prevalent in the region. As the sheer number of investor owners has grown, one profile has emerged as particularly problematic: the **non-local investor owner protected from accountability for property conditions by multiple shells of limited liability** and supported by ostensibly “local” property managers similarly protected by limited liability structures; who may or may not be operating with appropriate State licensure; and who are not only also failing to comply with local ordinances but placing additional barriers to both the enforcement of local codes as well as tenants’ legal rights to safe, decent, and habitable housing at a fair rental price. **These property managers (referred to in this paper as “bulk property managers”) can put themselves in a position where they only serve their own interests without regard to either the absentee property owner or tenant.** Some bulk property managers represent themselves as real estate gurus; continually recruiting new investors who do not have the knowledge or experience to be a beneficial owner but who have some capital and are merely seeking steady, passive cashflow from rental income. Conversely, small locally based landlords are often not organized in corporate form; often rent out property they formerly occupied as homeowners raising children (hence the phrase “mom and pop landlords”), are more willing to work with tenants and municipal officials, but may be undercapitalized, lack access to professional services such as contractors, lawyers, or accountants, and find access to credit difficult. **Our findings reinforce the notion that all investors cannot be lumped together – there are many good investors acting responsibly; but the increase we have seen suggests an alarming increase of investors, who, as will be explored further in this paper, are frequently willing to ignore local building and housing codes.**

8. **Current public policies do not adequately account for the increase in business entities owning residential real estate, nor the legally significant factors such ownership brings.** These factors begin to manifest as problems when investor-owners refuse to address issues of code compliance, fail to comply with local rental property registration ordinances, and corresponding state and local ordinances and regulations.

9. While our key findings are largely based on 1-3 family housing data, we have observed sufficient anecdotal evidence to suggest that **the irresponsible and harmful patterns and practices we document here are frequently associated with investors purchasing multi-family apartment buildings.** The recommendations that follow should be considered for both 1-3 family and multi-family properties.

⁴ Ohio State law (R.C. 5321.04) imposes affirmative duties of care and maintenance upon landlords, including to keep all fixtures in working order, to supply heat and water, and maintain units in fit and habitable condition. Those minimum statutory duties are expanded upon by some municipalities in Cuyahoga County through local ordinances which control additional elements of the landlord-tenant relationship.

Key Recommendations

Our data indicates that the dramatic rise of investors buying residential real estate threatens to undermine housing conditions, market stability, and housing value. Further, this data reveals that east side residents, who are primarily African American, have a greater likelihood of seeing a property in their neighborhood purchased by an investor that will fail to comply with or disregard local ordinance and State laws designed to protect both communities at large as well as renters, which are classified as an increasingly vulnerable population.

In order to ensure responsible investment activity and protect the citizens of Cleveland and Cuyahoga County, VAPAC recommends policy changes that fall into five general categories:

Modernize code enforcement to combat investors intentionally eluding accountability, including but not limited to:

- Amending local ordinances and/or state statutes to require greater disclosure of responsible parties at the point of property transfer, including individuals behind property management companies, limited liability companies and other fictitious name entities, to ensure compliance with applicable State laws and local ordinances;
- Amending local ordinances and/or state statutes to authorize local county fiscal officers to withhold the filing of deeds until delinquent property taxes are paid and companies are registered with the Secretary of State;
- Making full use of state statutes that provide for code violations to be transferred to a new owner;

Empower Municipal Law Departments to aggressively pursue and prosecute problem owners including but not limited to:

- pursuing civil actions in addition to criminal proceedings;
- Aiding neighbors in seeking statutory damages from owners of condemned property;
- supporting and collaborating with code enforcement officials to streamline and modernize code enforcement.

Allocate financial and material resources to existing departments and programs which further policy preferences for homeownership and keeping locally controlled rental properties in good repair including but not limited to:

- fully funding code enforcement and building departments up to and potentially beyond the level of their projected revenue;
- supporting and funding programs related to first time homeownership and home repair funds for homeowners and small landlords.

Correct the imbalances of bargaining power between landlords and tenants including but not limited to:

- enacting municipal ordinances for “right to counsel”, “source of income protection” and “pay to stay protection”;
- supporting the reformation of the Cleveland Tenants Organization (CTO);
- holding landlords accountable through the municipal code enforcement process;
- Simplify and streamline the Clerk of Courts process that enables tenants to deposit their rent in escrow when repairs are not made.

Collaborate across departments, administrative boundaries, and levels of government to streamline the code enforcement process, including but not limited to:

- creating a cross-departmental task force that breaks down the “silo effect” and combats bad actors who try to game the system with endless enforcement delays;
- collaborating closely with the Cuyahoga Metropolitan Housing Authority (CMHA) on Housing Choice Voucher properties;
- exploring the feasibility of a countywide housing court similar to the Franklin County housing and environmental court;

Introduction

The Next Housing Crises are Already Here

As the greater Cleveland area continues to grapple with the COVID-19 pandemic and its aftershocks, the ongoing public health emergency has exposed in stark relief the racial and socio-economic inequities that some believed to have been receding. These inequities have been highlighted not only by the pandemic, but by longstanding tensions involving racial bias in both policing and socio-economic standing. Local, regional, and national events have highlighted not only the persistence of structural racism but have called into question the fundamental nature of our economic and political relationships. Nowhere have these issues revealed themselves more vividly, nor impacted the lives of residents more directly, than in the access to affordable housing and in the disparate impact of neighborhood investments made just before, during, and after the 2008 Foreclosure Crisis.

The current conditions and corresponding policy recommendations outlined in this paper do not arise in a vacuum. Rather, they are the outcome of analyzing over fifteen years' worth of data which demonstrate the investment and purchase patterns that have emerged in the Greater Cleveland real estate market beginning in 2007 (generally considered to be the first year of the Housing Crisis period). Specifically, this paper seeks to demonstrate through clear and convincing data that over a decade of inequitable investment activity has led directly to twin crises of affordability and accountability in the area's rental market.

This paper seeks to demonstrate not merely a compilation of data, but a carefully considered analysis of the role and impact the current growth of corporate and limited liability company (LLC) owned rental property have had on the local - regional residential real estate market. This impact, and the corresponding skyrocketing sales prices & rents, poses an existential threat to naturally-occurring affordable housing (NOAH) that cannot simply be corrected by an increase in housing supply given the current cost of new construction. Ultimately, this is an urgent problem for the present that requires action now, in the present. As such, this paper will conclude by outlining a set of recommendations for policymakers and advocates alike to address challenges posed by the current lack of appropriate regulation in our region's rental real estate market. Adopting such recommendations, we believe, is not a silver-bullet solution. Rather, these policies are necessary and long-overdue additions to the toolkit needed to properly repair this region's broken housing market and responsibly maintain it in good working order.

From Crisis to Crises

Before we can address the affordability and accountability crises of the present moment, we feel we must acknowledge the context in which these issues have emerged⁵. A thorough understanding of how we arrived at this juncture is critical to understanding what we must do to move forward, and key events of the Foreclosure Crisis period (2007-2012) set the stage for this current environment, although pandemic conditions could certainly be argued to have accelerated documented trends. The fact

⁵ Perhaps the best primer on the local impact of the 2008 Housing Crisis and its aftermath is the excellent survey by Professors Claudia Coulton (CWRU) and Kathryn Hexter (CSU), "Facing the Foreclosure Crisis in Greater Cleveland: What Happened and What People Are Doing About it" (University Press, 2010).

remains that, during the years of the Foreclosure Crisis, 91% of property being foreclosed upon was classified as residential property, totaling some 82,466 homes.⁶ A second stark number: from 2007 to 2015, 32,466 residential properties, or 25.52% of the City of Cleveland's total housing stock, went through the foreclosure process, with a great many of those properties being sold at sheriff's sale to satisfy unpaid mortgage or tax debt. Given that reality, the biggest contextual question for this paper naturally follows: who, exactly, were the buyers of these properties?

To answer that question, a study of investor typography in Cleveland's foreclosed residential (1-3 family) property market revealed that the majority of these properties were sold at often steep discounts to investors, either individuals or corporate entities (including Trusts, corporations, and Limited Liability Companies or LLCs), with a majority of investors being non-local to Cuyahoga County and a supermajority being non-local to the City of Cleveland.⁷ This last factor is crucial for an understanding of the current situation.

As discussed at length by the authors of the REO (Real Estate Owned) Investor study cited above, property owned by non-local investors has led to far more negative outcomes than property generally owned by individuals using property as their primary residence (hereafter "homeowners") or by local investors residing within the City or in adjacent suburbs. These negative outcomes are generally described and documented in that study as a combination of a) moderate to severe non-compliance with local and State building and housing codes; b) a higher rate of tax delinquency contributing to an overall erosion of public services, and c) a wholesale destruction of neighborhood density and character as a result of eventual condemnation and demolition. It is this pattern of so-called "investment" which has led to the first of two crises explored by this paper, namely the crisis of accountability among this region's investor-owned rental real estate.

Failing Systems: The Crisis of Accountability

As has been ably identified by still other studies, the type of activity described in the preceding section was not evenly spread throughout Cuyahoga County, nor was it limited to simply the years of the Foreclosure Crisis. In fact, this pattern of acquisition by non-local investors and subsequent higher rates of negative outcomes has not only continued but has *increased* in the years of supposed recovery from the Great Recession. As this paper will demonstrate, the percentage of investors now owning Cleveland residential real estate has skyrocketed from under 10% before 2007 to nearly 25% - eerily mirroring the same percentage of Cleveland properties subject to foreclosure just over a decade ago.

Concentrated predominantly on Cleveland's majority African-American east side, a glut of post-foreclosure investment properties are now owned by non-local investors operating largely behind corporate facades. These properties, bearing some combination of the three negative outcomes of building code noncompliance, tax delinquency, and increased rates of condemnation / demolition have decimated historic communities of color and left a stain of abandoned homes and vacant lots on proud neighborhoods that once symbolized the immigrant promise of America as a land of opportunity. These negative outcomes, documented repeatedly over the past 15 years in studies and news articles, are primarily the result of a system of code compliance that is no longer able to properly or effectively

⁶ <https://www.wrlandconservancy.org/wp-content/uploads/2016/03/Cuyahoga-Housing-Trends-3-23-16rev.pdf>

⁷ For an analysis of post-foreclosure property purchasers see the work of Frank Ford, et. al. in <https://www.jchs.harvard.edu/research-areas/working-papers/role-investors-one-three-family-reo-market-case-cleveland>

regulate a 21st -century rental real estate marketplace to ensure good faith investment activity. The roots of this failure lay in the fact that Building and Housing Code compliance in Cuyahoga County generally and in the City of Cleveland particularly, is a static criminal proceeding. Plainly, this means the violation of one or more housing, building, or health codes is a criminal offense that is governed by strict rules of procedure and overshadowed by the great deference that Constitutional jurisprudence gives to corporate actors combined with the rights enjoyed by all criminal defendants, including corporate defendants.

As a non-felony, code violations merit either the issuance of a minor misdemeanor ticket (roughly approximate to a parking violation or in some cases a speeding ticket) or a first-degree misdemeanor violation, which is in fact on par with the most serious misdemeanor crimes meriting a maximum penalty of 180 days imprisonment or a maximum fine of \$1,000 per day if the defendant is an individual or a maximum fine of \$5,000.00 per day with no jail term if the defendant is a corporate entity for each day the code violation is uncorrected, and can only be imposed after a successful criminal prosecution.

However, in order to prevail in such a prosecution, the City must comply with the same Constitutional standard which applies to all criminal proceedings: namely, 1) due process rights of the defendant must be guaranteed; 2) the defendant is presumed innocent until proven guilty *beyond a reasonable doubt*; 3) the defendant enjoys the right to confront and cross-examine witnesses of the prosecution; 4) in a misdemeanor case, the defendant cannot be arrested beyond the bounds of the Court's jurisdiction, and corporate defendants, being legal fictions, are not subject to arrest. Applying these and other myriad rules of criminal law and procedure to the subject before us, it does not take long to realize that a corporate defendant, particularly one located in another state, enjoys substantially more legal protection than a living breathing individual in a code enforcement prosecution.

Given this legal reality, it becomes quickly apparent that investor purchases of low-value, code non-compliant, and formerly foreclosed real estate as so many investors have done over the years during and since the Great Recession, employ corporate forms to evade criminal liability. Instead, the region is faced with increasingly negligent games of Monopoly played with very real neighborhoods where very real and hardworking families call home. It comes as no surprise then that the most effective ways presently employed for remedying negative property conditions and holding irresponsible investor-owners accountable come in the form of civil, rather than criminal processes: tax foreclosure, civil collections lawsuits to recoup costs of demolition, and civil nuisance abatement lawsuits.

The unfortunate reality, however, is that each of these remedies described above, whether civil or criminal, takes time, money, and tremendous effort to prevail; conversely, often all that is required to create a toxic web of code violations, perpetual tax delinquency, and ultimately properties lost to condemnation and foreclosure is negligent ownership.

Finally, there is one additional factor – essentially a perfect storm of housing market conditions – that has contributed to increased investor activity. **Following the foreclosure crisis, home sale prices dropped dramatically – but rents did not drop.** Research referenced earlier in this paper⁸ documented a substantial drop in home sale prices, particularly in the majority African American east side of Cleveland and east inner suburbs. These low sale prices have also been noted in a study commissioned by the City of Cleveland to assess the challenges obtaining property value appraisals in Cleveland.

⁸ Ford, (n 6)

“National and international investors have been purchasing homes in Cleveland for investment purposes. Often, minimal improvements are made at the homes held as rental property. We were told that investor classes in Florida and other locations are identifying Cleveland for investments in homes under \$35,000. The house we appraised in the Lee Harvard neighborhood was owned by an investor in London. The house in Mt. Pleasant was owned by an investor in California. Out of town investors push values up on the low end by increasing demand. These investor's often do not maintain properties, are not responsive to tenants and can lead to the destruction of neighborhoods.”⁹

Investors from other parts of the country, indeed from around the world, can pay cash for a \$20,000 - \$30,000 home and collect rents the same as when the home was valued at \$80,000 before the foreclosure crisis. As one investor reportedly told the study's author “the streets in Cleveland are paved in platinum, because the houses are so cheap and the rents have never declined”.¹⁰

When improperly regulated, a market environment subject to speculation and negligent ownership creates perverse incentives to capture and subsequently devour whatever remains of a community's naturally occurring affordable housing. A choice between a luxury condominium or a vacant lot is an unsustainable development strategy. It is this regulatory environment which has contributed greatly to the second crisis, one of affordability.

A Nation of Renters?: The Crisis of Affordability

The topic of affordable housing is one of present and increasing urgency, especially in light of historical truth. There was a time in our nation's and our region's history where to own one's home rather than rent from a landlord was a sign of wealth beyond comprehension for the average Greater Cleveland household. One need only compare the faded photographs of Cleveland's Millionaire's Row with the tenements housing the African-American and immigrant laborers working in Cleveland's heavy industries for an illustration of how things used to be.¹¹ In large part because of the legacy of heavy industry and the need for cheap, oftentimes immigrant labor, Cleveland has had, since the beginnings of its industrial buildup, a majority of residents-as-renters who have had to struggle with the lack of safe, decent, and affordable housing as a generational issue.

Of course, the four decades following the end of World War II saw prosperity in America unlike anything previously known in human history: the general narrative of post-war prosperity was centered around homeownership for the average (white) working family, and in part, the rapid construction of uniform suburban housing in the post-war period increased opportunity for affordable homeownership. For the African American community, housing choices during this post-war boom remained limited through the well-documented and endemic housing discrimination that explicitly informed so much of American housing policy. The negative impact of such racially motivated policies as red-lining and restrictive covenants has had a significant and implicit *de facto* impact on family net worth that has reverberated long after the explicit *de jure* barriers were ostensibly removed. The legacy of racial discrimination in housing has manifested itself through lower housing price appreciation in the city generally when

⁹ “Single Family Residential Appraisal Study, Cleveland, Ohio”, Emily L. Braman, SRA, AI-GRS, 2-20-20.

¹⁰ Presentation by licensed appraiser Emily Braman at the April 14, 2021 meeting of the Cuyahoga County Council Reinvestment Subcommittee.

¹¹ See Generally “Derelict Paradise: Homelessness and urban Development in Cleveland”

compared to the suburbs and was most recently reflected in the disparate negative impact of the 2008 Foreclosure Crisis on the African American community.

The latest manifestations of the post-Housing Crisis legacy have been the purchase of foreclosed, previously owner-occupied homes for conversion to largely substandard rental housing largely beyond the grasp of the current regulatory framework or, conversely, demolition. As a result, capture of existing naturally occurring affordable housing has created an environment of increasing rents, rapidly approaching a point beyond what most renters in already severely disadvantaged communities can afford. Rents are increasing, but there is little to no improvement in the quality of rental housing. One particular study noted the year over year change in rent for the Cleveland metro area from December 2020 to December 2021 was 11.5 percent¹². That finding is limited to new rentals listed on the MLS and does not account for the majority of rental properties, which overall is more difficult to measure and comes typically from firsthand accounts from tenants engaged in landlord-tenant disputes and practitioners in the field¹³.

In another unsettling parallel to the run-up to 2008, when Cuyahoga County was a key predictor of later national trends, numerous news outlets have begun documenting the rise in rents across the United States^{14 15 16 17}.

This reporting echoes recent comments from Sofia Lopez, Director of Housing at the Action Center on Race and the Economy who noted the in her testimony before the U.S. Senate Banking Committee:

“The concentration of investor ownership is not race-neutral. Memphis, which is 64 percent Black, has the lowest rate of Black homeownership of the 50 largest cities, and the highest share of investor ownership. Cerberus Capital Management, Pretium Partners, American Homes 4 Rent, and others bought a combined 7,000 homes in Shelby County (where Memphis is located) . . . What’s more, a Reuters report captures how tenants can feel they have no choice but to rent from institutional landlords . . . Because of the market segment where SFR landlords are focused, and the fact that they have cash and are willing to buy sight-unseen, first-time, particularly lower-income, prospective home buyers are not able to compete. Given the relationship between race and income, it is reasonable to believe the people hurt the most are prospective home buyers of color.”¹⁸

Whereas in 2008 hedge funds and other large institutional investors dominated investment activity and directed such activity into “mortgage-backed securities”, the picture rapidly emerging as we enter the

12 <https://www.redfin.com/news/redfin-rental-report-december-2021/>

13 <https://www.banking.senate.gov/hearings/how-institutional-landlords-are-changing-the-housing-market> see specific testimony from Mr. Michael Waller, Ms. Aneta Molenda, and Ms. Sally Martin

14 <https://www.washingtonpost.com/business/2022/01/30/rent-inflation-housing/>

15 <https://www.npr.org/2022/02/14/1080145270/its-not-just-home-prices-rents-rise-sharply-across-the-u-s>

16 <https://www.wsj.com/articles/the-cost-of-rent-is-rising-fast-heres-what-americans-can-do-about-it-11639045803>

17 <https://www.realtor.com/news/trends/sorry-tenants-rising-rents-continue-to-smash-records/>

¹⁸ <https://www.banking.senate.gov/hearings/how-private-equity-landlords-are-changing-the-housing-market>

2020s is an astronomical amount of global capital being directed at the residential housing market, largely conveyed through corporate entities and shell companies.¹⁹

This influx of hedge fund capital, combined with a housing supply shortage in part caused by the same class of actors' refusal to adequately maintain properties purchased from REO in the last crisis, have now blossomed into the conditions arguably that these actors most desire: a highly competitive, highly speculative rental real estate market where investors are free to play as many games of Monopoly across state lines and national borders as they can afford - and at the expense of local municipalities, working families and especially communities of color. As this paper and its data analysis hopes to demonstrate and as our policy recommendations indicate, current trends will continue to be exacerbated if more robust enforcement of existing code requirements, corporate regulation, and increased support for community-driven development is not taken seriously and acted upon. As the data presented by this paper and other, similar studies indicates, if current trends continue without corrective action, we may find ourselves in a society where homeownership and the financial equity, community stability, and personal security that property ownership brings is once again a luxury reserved for the exceptionally privileged.

Examining Investor Activity through Business Purchases of 1-3 Family Homes in Cuyahoga County 2004 – 2020: A Quantitative Approach

With media outlets reporting the increase in investor activity in the single-family housing market and local community development professionals providing compelling anecdotes, the problem now becomes quantifying investor activity in Cuyahoga County and, if possible, assessing the quality of investors in the county. Fortunately, there is robust sharing of various administrative data sets in the county through NEOCANDO²⁰ at CWRU's Poverty Center. Included in their suite of data tools is access to property sales data for Cuyahoga County going back to 1976, which allows for an assessment of buying patterns by different categories of buyers. While the data are not specific enough to identify individuals acting as investors, the detail is there to classify businesses who buy 1-3 family property as investors. Simply put, a business that owns a 1-3 family structure is considered an investor, whether that is as a speculator, rehabber, or landlord. Despite the limitation on individual buyers, focusing on business buyers provides an excellent picture of investor activity in Cuyahoga County.

The recent rise in investor activity requires a baseline level of activity from which to compare. Several timelines could be applicable here, but for the purposes of this research, data from 2004 will be used as a baseline of investor activity before the foreclosure crisis. We will analyze data during and immediately after the foreclosure crisis and activity during the housing market recovery. Additionally, the different categories of buyers need to be delineated. Individuals and businesses have already been discussed and since the study period will cover the foreclosure crisis, banks should be in their own category aside from businesses. Other buyers that have been set into their own category are federal

¹⁹ <https://www.theatlantic.com/technology/archive/2019/02/single-family-landlords-wall-street/582394/> ; see also

<https://www.wsj.com/articles/if-you-sell-a-house-these-days-the-buyer-might-be-a-pension-fund-11617544801>

²⁰ <https://neocando.case.edu/> Northeast Ohio Community and Neighborhood Data for Organizing; Center on Urban Poverty and Community Development; Case Western Reserve University; Jack, Joseph and Morton Mandel School of Applied Social Sciences

government/government sponsored enterprises²¹; state forfeiture properties; land bank/local/state government; and trust/trustee. The focus here will be on business and individual buyers.

Baseline data for 2004 shows relatively low levels of business buyer transactions in the 1-3 family housing market in Cuyahoga County and most submarkets within the county. There were a total of 1,679 business buyer transactions in the county. The submarket with the most business buyer transactions was the east side of Cleveland with 780. As seen in Table 1, the east side of Cleveland had 15.94 percent business buyers of 1-3 family homes, whereas all other submarkets were below seven percent. The east side of Cleveland is also the only submarket that was majority black around the same time period. There was an initial concern in reviewing the baseline data that the larger number of two and three family structures on the east side of Cleveland may be skewing the data towards a higher percentage of business buyers. However, when removing those sales from the data, the percentage of business buyer transactions on the east side of Cleveland for single family homes was 16.8 percent.

Table 1	Number of Transactions with Business Buyer 2004	% Transactions with Business Buyers 2004	2000 Census Percent Black
East Side CLE	780	15.94%	78%
West Side CLE	234	6.57%	12%
East Inner Suburbs	341	6.67%	42%
West Inner Suburbs	97	2.98%	1%
Outer Suburbs	227	3.45%	6%
Cuyahoga County	1,679	7.17%	27%

The higher percentage of business buyers on the east side of Cleveland likewise means a lower percentage of individual buyers. In 2004, 68.99 percent of buyers of 1-3 family homes on the east side of Cleveland were individuals. Comparatively, the west side of Cleveland and the east inner suburbs had 85 percent individual buyers with the remaining submarkets an even higher percentage. Overall, 1-3 family home purchases by businesses were low for the baseline year of 2004. This indicates that the residential housing market was still largely focused on individual buyers and owner occupancy; and that there had not yet been a transformation in the market where those engaged as landlords, in housing rehabilitation, and in speculation became commonplace.

Fast-forwarding to 2020, the last full year of data, we see substantial growth in business buyer transactions and in the percentage of businesses buying 1-3 family homes across all submarkets in Cuyahoga County. For the county as a whole, business buyers nearly tripled from 2004 at 7.17 percent to 21.1 percent in 2020. The total number of business buyer transactions was 7,858, an increase of over 6,000 purchases from 2004. While the exact amount will vary across the country, the increase in

²¹ Federal National Mortgage Association (Fannie Mae); Federal Home Loan Mortgage Corporation (Freddie Mac); and similar GSEs

investor buyers in Cuyahoga County lines up with reports from housing researchers and media outlets²²
^{23 24 25 26}. The specific increases across the different submarkets can be seen in Table 2.

Table 2	Number of Transactions with Business Buyer 2020	% Transactions with Business Buyers 2020	ACS 2018 5 Year Estimate Percent Black
East Side CLE	2,938	45.76%	78%
West Side CLE	1,347	25.61%	22%
East Inner Suburbs	2,202	28.45%	57%
West Inner Suburbs	516	8.91%	6%
Outer Suburbs	855	7.11%	11%
Cuyahoga County	7,858	21.10%	31%

The largest increase by percentage points occurred on the east side of Cleveland. From 2004 to 2020, business buyer transactions increased by almost 30 points. This is nearly a threefold increase over the time period. In fact, business buyer transactions exceeded individual buyer transactions in 2020, 45.76 percent to 44.79 percent. Despite the inability to distinguish investors from owner occupants for individual buyers, it can be concluded that the majority of buyers on the east side of Cleveland are investors. **The result is a housing submarket that is largely rental, with limited opportunities for new home owners and the associated benefits of stability, health, and wealth building²⁷.**

The west side of Cleveland and the east inner suburbs also saw substantial growth in business buyer transactions from 2004 to 2020. The west side saw an increase of over 19 percentage points to 25.61 percent. Business buyers in 2020 were 3.89 times higher than in 2004 as a percentage of the whole. Similarly, the east inner suburbs saw business buyers increase over 21 points, from 6.67 percent to 28.45 percent. This increase from 2004 to 2020 was over fourfold, the largest among all Cuyahoga County submarkets. As with the east side of Cleveland, the increase in business buyer transactions on the west side of Cleveland and east inner suburbs serves to limit buying opportunities for owner occupants. Depending on the business practices of the investor, this increased business buying activity can also decrease neighborhood stability, further limit owner occupancy opportunities, and provide poor housing outcomes for renters.

It is also worth noting the increase in business buyer transactions in the inner west suburbs and outer suburbs, despite the percentage in 2020 remaining below nine percent for both submarkets. The west inner suburbs business buying increased from 2.98 percent in 2004 to 8.91 percent in 2020, nearly three

²² <https://www.cnn.com/2021/08/02/business/family-homes-wall-street/index.html>

²³ <https://www.theatlantic.com/technology/archive/2019/02/single-family-landlords-wall-street/582394/>

²⁴ <https://www.wsj.com/articles/if-you-sell-a-house-these-days-the-buyer-might-be-a-pension-fund-11617544801>

²⁵ <https://www.redfin.com/news/investor-home-purchases-q2-2021/>

²⁶ https://www.propublica.org/article/when-private-equity-becomes-your-landlord?utm_source=pocket-newtab

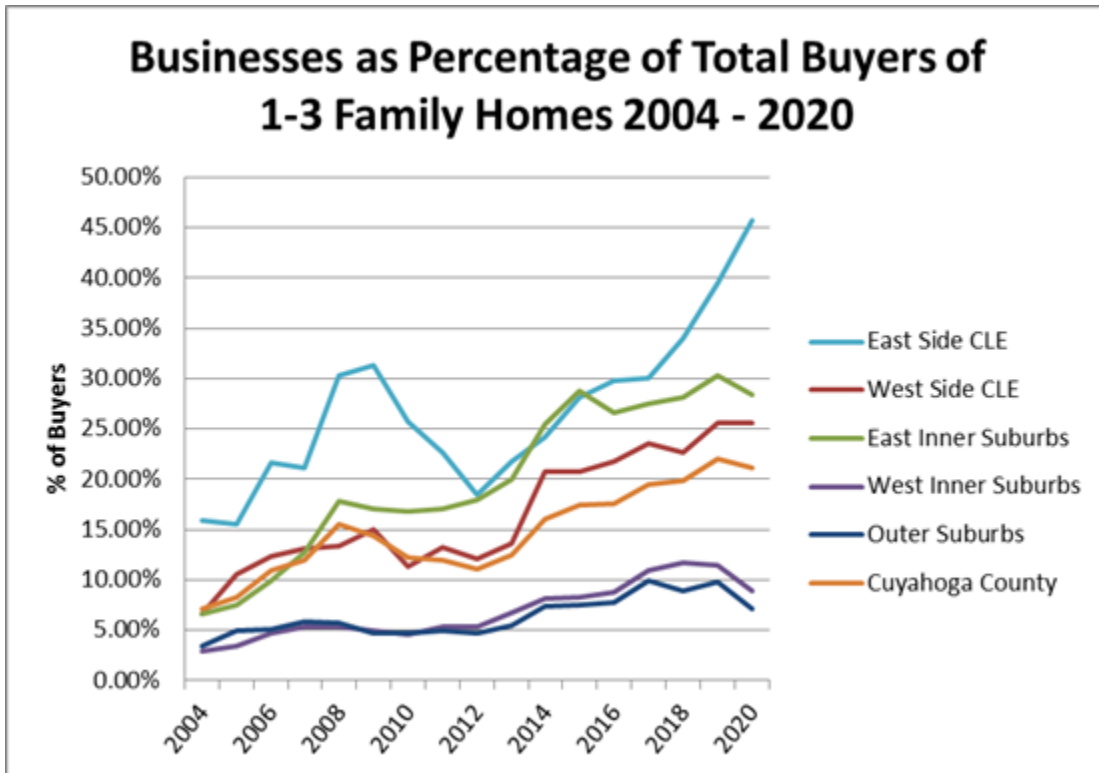
²⁷ Laurie S. Goodman & Christopher Mayer (2018), Homeownership and the American Dream, *Journal of Economic Perspectives*, vol 32-1, Winter pgs 31-58

https://www.urban.org/sites/default/files/publication/96221/homeownership_and_the_american_dream_0.pdf

times higher. Business buying in the outer suburbs increased from 3.45 percent to 7.11 percent, just over doubling. While the percentage point increases for these two submarkets were comparatively low to the other submarkets, when looking at the ratio increase, those values are higher than one might think at first glance. Business buyers of 1-3 family homes are growing in all submarkets of Cuyahoga County.

With those two bookends, 2004 and 2020, it is now important to turn to the years in between to look at long term trends. Perhaps the percentage of business buyers is accelerating upwards, or maybe slowing down after years of growth following the foreclosure crisis. Figure 1 provides the level of detail necessarily to identify any such trends.

Figure 1



The simplest trends to outline are for the west inner suburbs and the outer suburbs. From 2004 to 2012, business buyers remained a small portion of all 1-3 family home buyers, even during the foreclosure crisis. Then, moving past 2012, there is a gradual increase to around ten percent or so. In 2020, business buyers then declined back down below ten percent. This could be business buyers taking advantage of the hot housing market during the pandemic and cashing out on some of their investments.

The other three submarkets, east and west sides of Cleveland and the east inner suburbs, had a different pattern of business buyers from 2004 to 2020. There was substantial growth in business buyers during the foreclosure crisis, with the percentages peaking in 2008 and 2009. The proportion of business buyers then declined or at least leveled out in 2010 until 2012, when investor activity picked up again. All five submarkets saw increased growth in business buyers from 2012 to 2019. In 2020, the east inner suburbs saw a decline in business buyers just like the west inner suburbs and outer suburbs. The

Cleveland submarkets did not see a decline in business buyers in 2020, with the west side of Cleveland remaining at 25 percent business buyers. The east side of Cleveland continued to see increased business buyer activity, going from 33.96 percent in 2018 to 39.53 percent in 2019 to 45.76 percent in 2020.

This is a troubling trend for the east side of Cleveland given that all other submarkets either remained flat or declined in their percentage of business buyers in 2020. The east side of Cleveland was hardest hit by the foreclosure crisis and the population is predominately black, raising housing market equity concerns^{28 29}. When thinking about the housing market recovery for Cuyahoga County, the continued growth of business buyers on the east side of Cleveland is potentially problematic. **Investor buyers can be good for a neighborhood, but delving into purchase price data, indicators of quality, and housing outcomes, will provide a clearer picture of business buyers in Cuyahoga County.**

The price a home sells for is determined by a number of factors. Under consideration are attributes such as number of bedrooms, school district, or proximity to amenities. Sales price can also be a proxy for the general quality of the home, which is what is of interest in this paper. By looking at the price a home sells for, one can determine the quality of homes being purchased by businesses compared to individual buyers. Table 3 has median sales price data for all Cuyahoga County submarkets in three key years.

Table 3 Median Purchase Price Non-Zero Single Property Transactions 1-3 Family Structures						
	2004		2012		2020	
	Business	Individual	Business	Individual	Business	Individual
East Side CLE	\$ 29,525	\$ 80,000	\$ 12,450	\$ 15,000	\$ 30,000	\$ 40,000
West Side CLE	\$ 40,000	\$ 88,000	\$ 21,000	\$ 40,000	\$ 50,000	\$ 95,000
East Inner Suburbs	\$ 65,000	\$ 113,000	\$ 25,000	\$ 65,500	\$ 55,000	\$ 107,000
West Inner Suburbs	\$ 109,250	\$ 133,500	\$ 50,000	\$ 103,000	\$ 122,500	\$ 155,000
Outer Suburbs	\$ 147,500	\$ 177,000	\$ 75,000	\$ 151,000	\$ 120,302	\$ 185,000
Cuyahoga County	\$ 42,000	\$ 121,053	\$ 27,000	\$ 100,000	\$ 48,300	\$ 135,000

²⁸ <https://nationalfairhousing.org/wp-content/uploads/2017/04/Lawsuit-Against-Fannie-Mae.pdf>

²⁹ https://nationalfairhousing.org/wp-content/uploads/2022/02/FM_Settlement_2022.pdf

Baseline price data for business and individual buyers can be seen in the 2004 column and are generally what one would expect. Businesses are buying homes at discounted prices. This presumably means the homes are in worse condition and in need of at least some rehab work, which is likely to be outside of the comfort zone for the average owner occupant. The largest gap between business and individual purchases prices was seen on the east side of Cleveland. Individuals were buying at prices 2.71 times what businesses were paying. Possible reasons include; houses requiring extensive rehab work; higher supply of low-quality housing in the submarket; or most likely, a combination of those factors. Individuals on the west side of Cleveland were also paying more than double what businesses were, at a 2.2 times price difference. It should be noted that individuals were paying about the same amount for a 1-3 family home on both sides of the Cuyahoga in Cleveland in 2004, with the west side having a slight advantage at \$88,000 to \$80,000 on the east side.

East inner suburbs also saw a premium paid by individuals, at 1.74 times the price paid by businesses. As with the Cleveland market, this is likely due to some combination of housing condition and the overall supply of distressed homes. When looking at the west inner suburbs and outer suburbs, the premium paid by individuals drops to 1.2 times what businesses are paying. This is likely the reason business buyers were low in those two submarkets in 2004. However, the higher home values appear to have been enough to entice some businesses to purchase property in the west inner suburbs and outer suburbs.

The next snapshot of price data in Table 3 is 2012. This year was perceived as the point in time when business buying activity increased in Cuyahoga County separate from foreclosure crisis investor activity. Home prices bottomed out in 2008-2009 and remained stagnant into 2012. A few important observations are to be made based on price changes from 2004. The first is simply how depressed prices were in 2012 across the board for both businesses and individuals. The Great Recession ended in the summer of 2009 according to key economic indicators, but that did not translate into recovered housing values through 2012 in Cuyahoga County.

Another key point from the data for 2012 is that businesses were buying at prices that were approximately 50 to 60 percent less than in 2004. The lower price point was likely an important driver to the increase in business buying that began in 2012. Investors saw this as a value opportunity, but many did not understand the condition of the houses they were purchasing, often sight unseen, and the money required to return them to productive use³⁰. The biggest discounts for business buyers were in the east inner suburbs, just over 60 percent, and the east side of Cleveland, just under 60 percent. These two submarkets also saw the greatest growth in business buyers in subsequent years.

The price difference paid by individuals versus businesses also changed in 2012 relative to 2004. For the east side of Cleveland, individuals went from paying 2.71 times as much as a business in 2004 to only 1.20 times in 2012. And given the low median price points, \$12,450 for a business and \$15,000 for an individual, one can surmise that the rehab market was essentially nonexistent. With price points so low for both businesses and individuals, there was no margin for a profitable rehab. Buyers were left to hold and speculate or become landlords of substandard property. Even the individuals buying on the east side of Cleveland were likely investors and not owner-occupants, given such low median values. Homes on the west side were still selling to individuals at about twice the amount of what businesses were

³⁰ <https://www.ichs.harvard.edu/research-areas/working-papers/role-investors-one-three-family-reo-market-case-cleveland>

paying, making some rehab possible, but low prices likely made margins very tight leaving more and more investors to either speculate or become landlords.

The suburban submarkets saw the ratio in median sales price between individual and business buyers increase from 2004 to 2012. This likely brought new investors to these areas and possibly aided in the recovery of these housing submarkets. The price differences between the two buyer types presented an opportunity to profit from rehab work again. Individuals in the east inner suburbs went from paying 1.74 times as much as businesses to 2.62 times as much. To put that in perspective, individuals in 2012 were paying 42 percent less than they were in 2004. So while there may have been opportunities for businesses to make money rehabbing properties in the east inner suburbs, the lower prices likely tightened the margins here just as on the west side of Cleveland.

The price drop for individual buyers was not nearly as dramatic in the west inner suburbs, 23 percent, and outer suburbs, 15 percent, while businesses were buying at about a 50 percent discount in both submarkets. When looking at the difference in price points for 2012, individuals were paying nearly twice as much as a business buyer. This likely created a viable environment for property rehabilitation where a business could buy, rehab, and then sell for a profit. Based on the price data for 2012, such opportunity was likely only available at a larger scale in the west inner suburbs and outer suburbs. Businesses operating under the rehab model would have very limited choices in the other submarkets, leading more towards the speculator or landlord business model for 1-3 family properties.

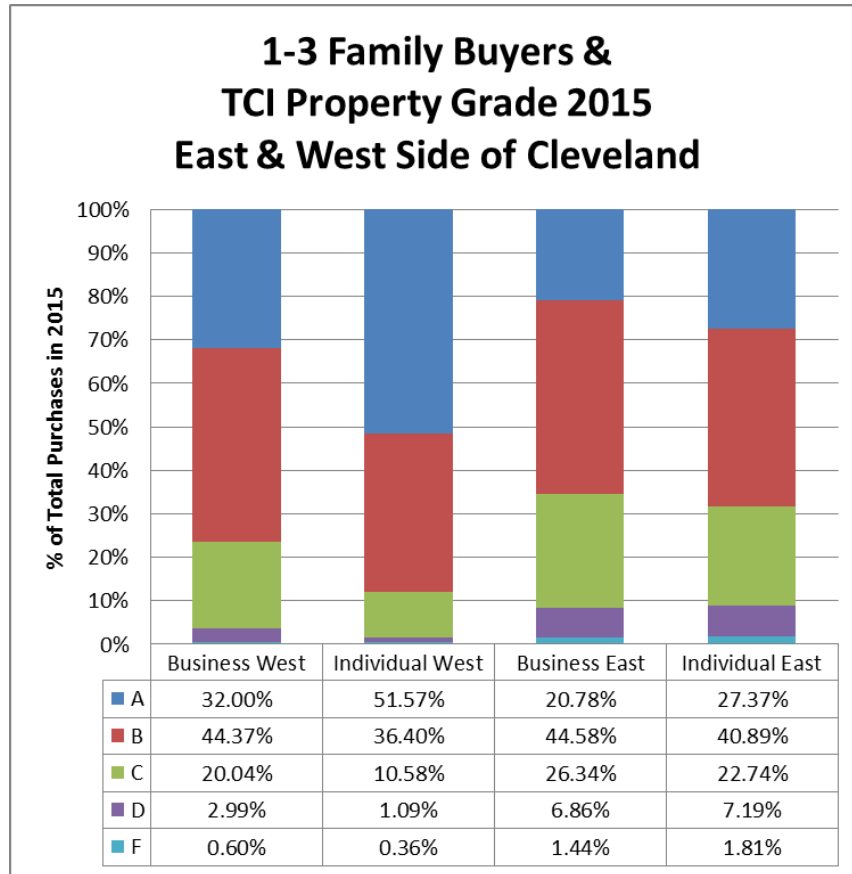
Moving into 2020, most submarkets have recovered to just below or above 2004 median prices for both business and individual buyers. This may be the reason for the slight downturn in business buyers seen in most submarkets. The one notable exception is the east side of Cleveland. Business buyers are back to 2004 levels at \$30,000 median sales price in 2020, but individuals are buying at half of what they were in 2004, at \$40,000 in 2020. It is reasonable to question how many individuals buying at \$40,000 have the intentions of being an owner occupant versus how many see it as an investment opportunity, making home ownership opportunities limited. This hypothesis is largely backed up by research done by Frank Ford at Western Reserve Land Conservancy on mortgage lending trends. His research shows extremely limited lending activity on the east side of Cleveland and for black buyers generally³¹. Individuals as investors aside, it appears that businesses as buyers and owners of 1-3 family homes are here to stay in Cuyahoga County, regardless of price.

Price data is important when tracking investor buyers. It shows the price point at which investors are entering and exiting the market; and also serves as a proxy for the quality of housing being purchased by investors in different submarkets. This proxy for quality isn't perfect and fortunately, there is better data on housing quality for the two City of Cleveland submarkets. Pairing price data with other measures of quality serves to verify both sets of data. The first set of improved quality indicators is provided by Western Reserve Land Conservancy (WRLC) and their Thriving Communities (TC) Program. They conducted a door-to-door property survey of the City of Cleveland in 2015 and another survey of the majority of east side neighborhoods in 2018. The other set of quality indicators is from the City of Cleveland's Department of Building and Housing (B&H) and includes permit data and rental registration data.

³¹ <https://www.wrlandconservancy.org/wp-content/uploads/2021/12/2020-Cuyahoga-Home-Mortgage-Lending.pdf>

The 2015, citywide survey gathered a large amount of property data, but of most interest here are the quality measures. Every property received a grade of A through F, with A being a home in excellent condition and F being a home in need of demolition or a complete rehab. Figure 2 shows property grades for 1-3 family homes purchased by businesses and individuals in 2015 in both Cleveland submarkets.

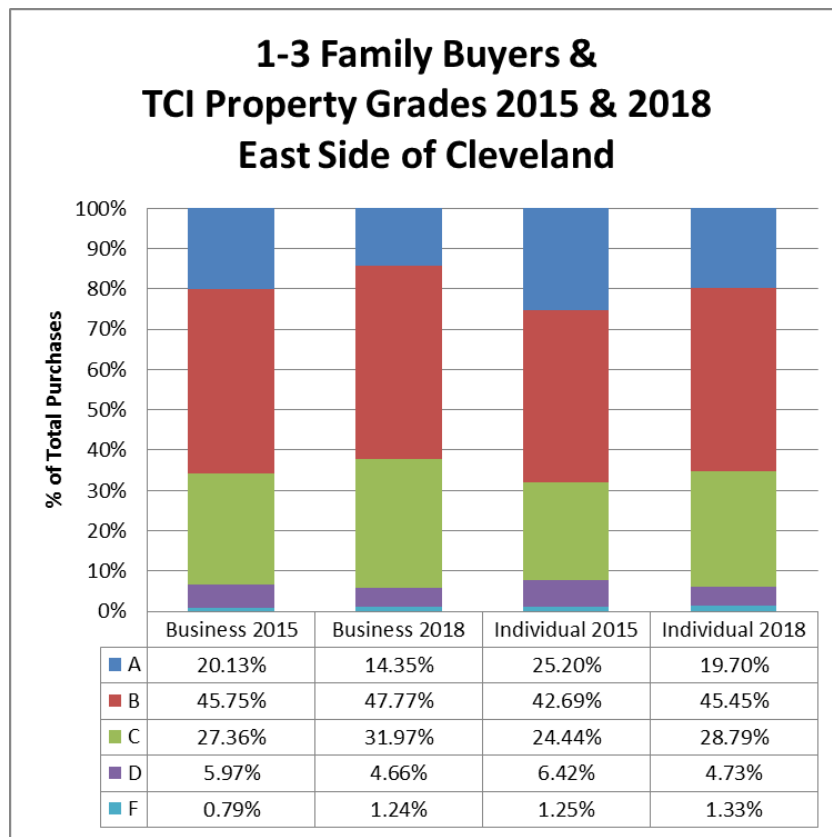
Figure 2



Individuals on the west side of Cleveland were generally buying at the top of the market in 2015, with 88 percent of the homes bought having a grade of A or B. Comparatively, business buyers on the west side only purchased 76 percent of their properties with an A or B grade. The percentage of business purchases in the C to F range, which would require improvement, were double individuals', at 24 percent to 12 percent. For perspective, median purchase price for businesses was \$26,000 and for individuals was \$55,000. The survey data from WRLC matches well with the price data.

Buyers on the east side of Cleveland were acquiring lower quality homes compared to west side buyers, for both businesses and individuals; and the differences between those two buyer types were less pronounced. Businesses bought 35 percent of their properties in the C to F range and individuals were at 32 percent. Median purchases prices continued to be low on the east side in 2015 at \$15,000 for businesses and \$19,600 for individuals. The low sales prices and lower quality property transfers indicate that the east side of Cleveland was largely an investor market in 2015. The subsequent survey of east side neighborhoods in 2018 provides an opportunity to see how the market changed over 3 years and the comparison can be seen in Figure 3.

Figure 3



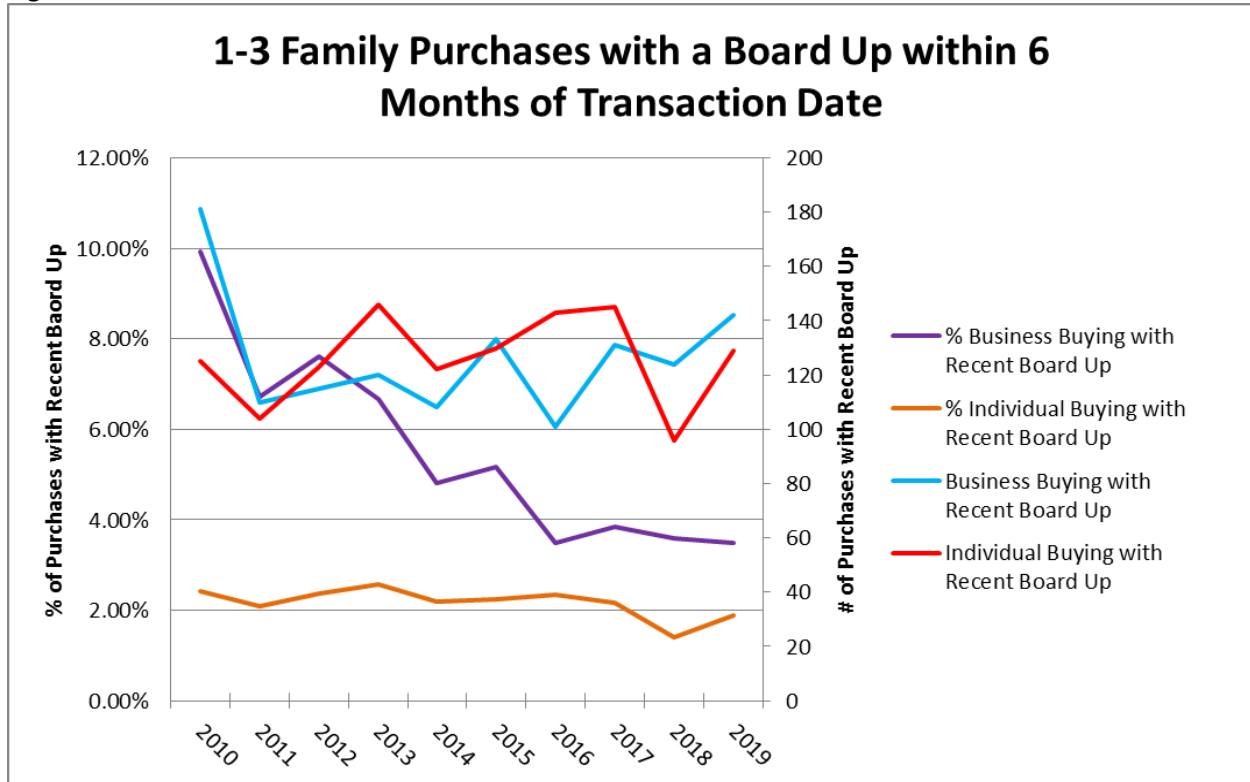
The first observation is that once again, there does not appear to be a large difference in the quality of homes being purchased by businesses and individuals. Secondly, purchases of A graded properties declined from 2015 to 2018 for both sets of buyers. This is a good thing if A properties are not being sold because an owner-occupant or long-term tenant remains in the home, but detrimental if it is simply a reflection that there are fewer A graded properties in the submarket. The bulk of purchases were in the B and C grades and homes in the D and F grades made up a smaller portion of overall purchases. With the lower number of A, D, and F properties, quality changes from 2015 to 2018 showed mixed results for the east side housing market.

Property transfers of greatest concern are the D and F graded properties. These properties often require the most expertise and money to return to a productive use; and they can languish in a dilapidated state when purchased by a business or individual without the wherewithal to bring the property into good condition. Another data point for these severely distressed properties is board-up data from B&H. A property that has been boarded up was identified by a B&H inspector to have been open, vacant, and/or vandalized. These properties were unsecured and open to casual entry-- meaning anyone could enter the property for any reason.

An analysis of transferred properties recently boarded in Cleveland was done for 2010 through 2019. A property was considered recently boarded if the board-up occurred six months before or six months after the transfer date. Figure 4 shows the total number of boarded homes purchased by businesses and individuals and the percentages of total purchases. In 2010, boarded homes made up almost ten percent of all homes purchased by a business. That percentage gradually dropped through the study period and boarded homes only made up 3.5 percent of homes bought by a business in 2019.

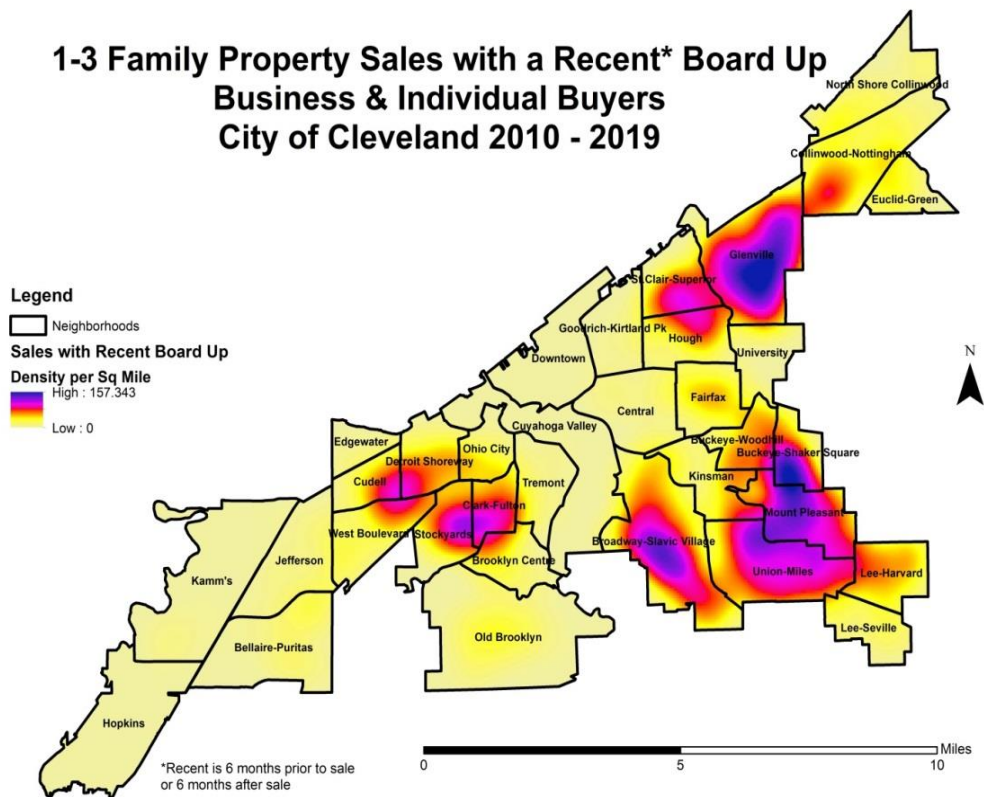
Unfortunately, **the decrease was not due to businesses buying fewer boarded homes, but rather buying more homes overall.** The percentage of boarded homes by individuals stayed relatively steady over time, remaining around two percent each year from 2010 to 2019. On average, businesses and individuals each purchased about 126 boarded properties every year.

Figure 4



At first glance, the overall low number per year and low percentage may not seem problematic for severely distressed homes transferring in the City of Cleveland. However, distressed sales can occur repeatedly over time in a concentrated geographic area. If this is the case, the distressed sales can serve to destabilize a street or neighborhood. Figure 5 maps the density of all sales from 2010 to 2019 that had a recent board-up where the buyer was a business or an individual and it reveals a concentration of these sales in the majority African-American east side of Cleveland and a few near-west neighborhoods. Highest densities are seen in Glenville into St. Clair-Superior and Buckeye south of Shaker Square into Mount Pleasant and Union Miles. Broadway-Slavic Village also has a high concentration of distressed sales. West side neighborhoods have two areas where these sales are prevalent, but less dense than east side neighborhoods. They occurred in Clark Fulton and Stockyards, and where Detroit Shoreway, Cudell, and West Boulevard come together.

Figure 5



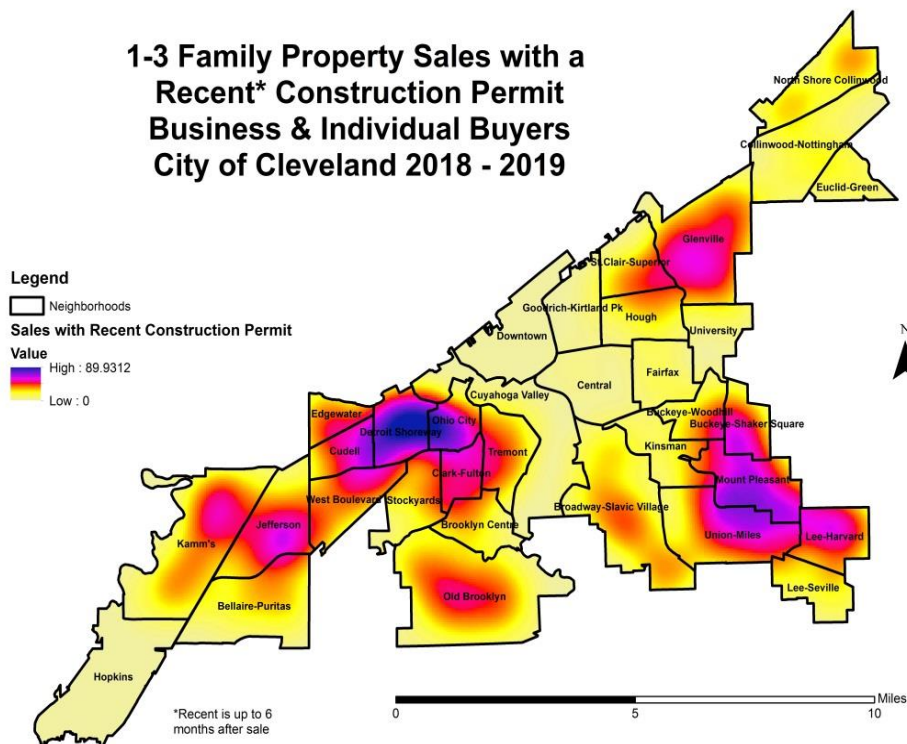
Buying a severely distressed home or a rental in need of some repairs isn't inherently problematic. Many investors successfully return homes to productive use by either selling a rehabbed home or renting out a home they've repaired. In most cases, rehab and repair to a home will require permits. Based on the housing quality data previously reviewed, it would be expected to see a fair amount of permit activity after the sale. Construction permit data from 2018 and 2019 is readily available and was matched with the sales data, looking for any property transfer that had a permit pulled within six months of the transfer date. That was then broken down into the two submarkets, east and west, and two buyer types, business and individual, to discern any differences or similarities, which can be seen in Table 4 as well as mapped in Figures 6 and 7. The table also separates out building permits from all construction permits. All construction permits includes permits for electrical, HVAC, plumbing, and other mechanicals, as well as building permits. Building permits typically require more substantial work, alterations, and/or improvement to a structure.

Table 4 1-3 Family Purchases 2018 & 2019 with City of Cleveland Permit Data

Buyer	% of Purchases with <u>any</u> Construction Permit within 6 Months of Transaction Date	% of Purchases with <u>Building Permit</u> within 6 Months of Transaction Date
Business East	9.37%	4.14%
Individual East	9.49%	4.01%
Business West	12.17%	7.97%
Individual West	9.12%	5.82%

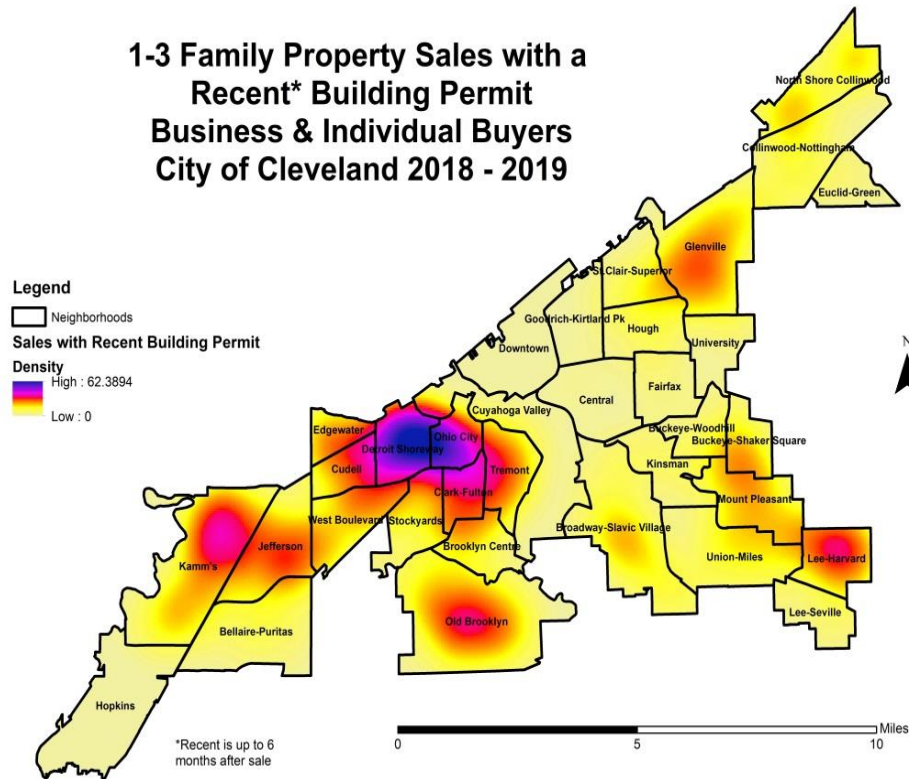
There are several observations worth noting. When looking at all construction permits, both east side buyer types and individual buyers on the west side are pulling permits at about the same rate: nine percent. Businesses on the west side are pulling permits 12 percent of the time after a purchase in 2018 or 2019. Based on the housing quality data (and the greater need for repairs), it was expected that there would be more permits pulled on the east side. Individual buyers on the west side of Cleveland were buying higher quality homes (needing fewer repairs) than east side buyers, yet they are pulling permits at about the same rate. **This leads to the conclusion that many east side investors are simply speculating, making repairs without permits, and/or moving tenants in without making repairs.**

Figure 6



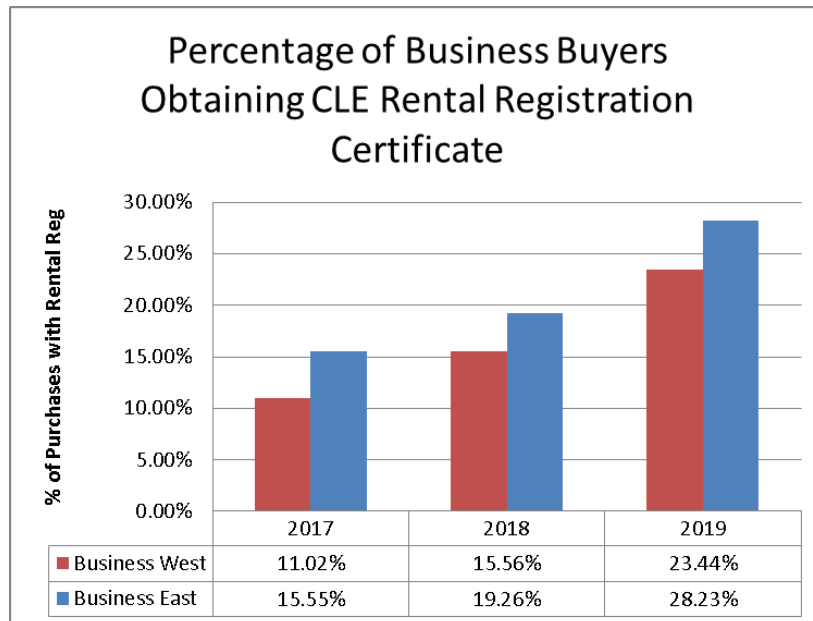
The disparity is even starker when restricting the analysis to only building permits. East side buyers pull a building permit after purchase only four percent of the time. West side businesses are at about eight percent and individual buyers on the west side are at 5.82 percent. That last statistic is possibly the most disconcerting. Individual buyers on the west side have been shown to be purchasing the highest quality housing out of the four groups, yet they are pulling building permits at a greater rate than both buyer types on the east side. Figure 7 below does an excellent job of showing this disparity. On the east side, there is a small hot spot in Lee-Harvard and an even smaller area in Glenville with some slight building permit activity. The west side has a large hot spot where Detroit Shoreway and Ohio City meet and also decent sized hot spots in Old Brooklyn and Kamm's Corners. And lastly, of the 491 transactions in 2018 and 2019 that had a recent board-up, only 155, or 32 percent, had a permit pulled within six months of the purchase date. When looking at only building permits, that number drops to 99, or 20 percent. This indicates that **the most distressed property acquisitions are largely remaining in poor condition.**

Figure 7



The permit data indicates that investor buyers are generally not doing significant property rehabilitation or repair. Another good indicator of the quality of investor activity is **compliance with rental registration**. For this analysis, the focus is on business buyers, as a business buyer cannot be an owner-occupant of a residential property, whereas an individual could be either an owner occupant or a landlord. Figure 8 below presents rental registration information for 2017 – 2019 for business buyers. A property is considered registered if the new business owner obtains a rental registration within six months of the transfer date. While rental registration compliance increased from 2017 to 2019, **only about 20 percent of businesses registered their property over the three years**. Across all three years, east side businesses had registration rates about four to five percent higher than west side businesses. This may indicate that more west side businesses are focused on rehabilitation and selling as opposed to being a landlord. The construction permit data supports this to some extent as well. East side businesses went from registering their properties 16 percent of the time in 2017 to 28 percent in 2019. West side businesses saw similar growth; registering properties 11 percent of the time in 2017 and up to 23 percent in 2019. Overall though, these are lower than expected rental registration levels, especially considering the also low levels of permitting seen in the previous section.

Figure 8



The information presented in this data section has provided a robust review of investor activity in Cuyahoga County from 2004 to 2020. There are several important conclusions to be drawn from it. First, **businesses are making up a higher proportion of buyers of 1-3 family homes** and this proportion has been increasing since at least 2012 across the county. Every submarket saw its percentage at least double since 2004. In 2020, the east side of Cleveland had more business buyers than any other type of buyer at 46 percent of all buyers in the submarket. The west side of Cleveland and east inner suburbs had more than a quarter of all buyers as businesses. **Business buyers and residential property investors in general are making up a larger and larger portion of the housing market. Municipalities, courts, county government, and other regulatory bodies need to adjust their approach to housing related issues to account for this change in the landscape.**

Price data countywide and other housing quality indicators specific to Cleveland indicate that **businesses tend to buy at the bottom of the market.** Lower quality houses typically have more code compliance issues and municipal tools to address this will need to be tailored to take into account that more and more of these properties are business and investor owned. On the east side of Cleveland, there no longer appears to be delineation between business buyers and individual buyers. They both buy at about the same price points and both buy similarly distressed properties. At such low median price points, it is reasonable to assume most buyers are investors, either business-investors or individual-investors. **With this submarket turning over into predominately rental housing, policy makers need to consider how best to promote good landlord-tenant relationships and also how to create programs to help those wanting to become owner-occupants.** Those types of policies would also be beneficial to the other submarkets in Cuyahoga County as their rates of investor buyers continue to remain high as well.

The data presented points to three less than ideal possible scenarios, taking into consideration information on purchase price, housing quality, permits, and rental registration. 1) Businesses are speculating or otherwise holding property without improving it through permitted rehabilitation. 2) Businesses are renting property without registering it, obscuring it from the rental inspection process

and lead safe housing requirements. 3) Businesses are renovating property without pulling permits, raising questions of safety and quality of workmanship. **Current policies in place do not adequately account for the increase in business entities owning residential real estate and the problems presented when these business entities cannot or will not address issues of code compliance, property registration, landlord-tenant, and/or other behavior expected of responsible property owners and housing market participants.**

Examining Investor Activity through Housing Professionals' Experiences and Observations: A Qualitative Approach

Data presented in the section above demonstrates the rise of investor owners in Cuyahoga County and more specifically, the data on housing quality shows that code compliance efforts and other policies are needed to address the rise in investor owners. In addition to the data, the VAPAC Investor Working Group has observed several different fact patterns or archetypes of investor owners that have been shown to be problematic. The fact patterns discussed in this section are not inherently negative on their own, but have been shown to often lead to adverse outcomes for structures, tenants, and neighbors. It should also be noted that the investor behavior outlined in this section is not designed to be exhaustive and new investor tactics are always emerging based on housing market outcomes and policy responses.

Bulk Property Managers

The first archetype can best be described as a one stop shop. This investor may have started out as a property manager or maybe buying and managing a few properties they owned. They are likely local to Cuyahoga County or Northeast Ohio. Over the years, they expanded to bringing in outside investors as owners, while they served as broker and property manager. They may also provide landscaping, snow removal, pest control, and similar services that allow another investor to simply buy a property and remain completely hands off. One can see how this arrangement would be attractive to new investors, especially those not local to Northeast Ohio. It also has the *potential* to be beneficial to local governments as well to have a single point of contact for many properties, if the bulk property manager maintains properties and is responsive to code compliance requests.

Despite the opportunity for positive outcomes, the VAPAC Investor Working Group has observed many instances where the bulk property manager archetype leads to negative outcomes for the new investors, tenants, and neighborhoods. The first example is the contract between the bulk property manager and the property owner. Some contracts have been observed to be structured so it is to the benefit of the bulk property manager to evict tenants. The fee schedule works so that they gain the most money from evicting tenants and placing new tenants; and not from collecting rent and maintaining the property. This can occur in any property manager-property owner relationship, but was discovered in researching bulk property manager enterprises. The property owner does not benefit under this type of contact because they are paying for eviction and placement and not receiving their portion of the rent. Tenants are negatively impacted because they are more likely to be evicted^{32 33}, and neighborhoods suffer from instability due to tenants moving in and out of the neighborhood. The primary beneficiary is the bulk property manager. Some policies that will be considered in more detail

³² Megan E. Hatch & Jinhee Yun (2021), Losing Your Home Is Bad for Your Health: Short- and Medium-Term Health Effects of Eviction on Young Adults, *Housing Policy Debate*, 31:3-5, 469-489

³³ Jack Tsai & Minda Huang (2019), Systemic Review of Psychosocial Factors Associated with Evictions, *Health and Social Care in the Community*, e1 – e9 <https://onlinelibrary.wiley.com/doi/epdf/10.1111/hsc.12619>

later to combat this are legislative initiatives that allow tenants to “pay-to-stay” and provide tenant representation during eviction hearings.

Another negative outcome that has been observed is when the bulk property manager comes to dominate or at least have a great deal of influence over a particular submarket. This doesn't happen quickly, but the Investor Working Group has observed situations where a bulk property manager becomes comfortable with the dynamics of a specific submarket and then steers many of their new clients to purchase in that submarket. They may even buy homes themselves and then in turn sell to a new investor for whom they can be the property manager. Target areas are frequently middle neighborhoods where houses sell for \$60,000 to \$120,000. The investor buyers remove homes that would otherwise be affordable for low-and-moderate income buyers. When such a monopoly takes hold, the bulk property manager controls who can enter and exit the market and controls price points for sales. This can be especially problematic in middle neighborhoods that have had a long history of owner-occupancy. As the bulk property manager continues to acquire properties for their clients, home ownership opportunities dwindle. Prices drop presenting even more buying opportunities for the bulk property manager. At this point, property maintenance issues and increased evictions haven't even been mentioned. Add those in with the market dynamics outlined above and it becomes apparent that a housing market monopoly by a bulk property manager results in negative neighborhood outcomes.

The last issue to be raised when discussing bulk property managers is not only problematic with this archetype, but rather can be present in any owner – property manager relationship. It is simply included here because it was often present when researching bulk property managers and it occurs when neither the property manager nor the owner will make repairs to a structure. The owner will say that the property manager is not making the repairs despite the owner giving the okay and the property manager will say that the owner has not given the okay or has not provided the money to make repairs--an all too frequent occurrence with an out-of-county or out-of-state owner. The VAPAC Investor Working Group has observed some instances where over 50 percent of the properties under a property manager have code violations. While the owner and property manager have this back and forth, the tenant is left with a property or unit in disrepair. **Cities that limit enforcement action to only the titled owner in these cases hinder themselves in trying to achieve code compliance.** In researching these cases, the Investor Working Group has uncovered successful examples where cities have brought property managers into court to gain compliance. Such cases will be covered more thoroughly in the Policy Recommendations Section, below.

The Agent Web

The next investor archetype to be discussed lacks the organized property management infrastructure of the bulk property manager. But like the bulk property manager, they likely started out as an investor themselves. Since those initial purchases, they have recruited other investors to the Northeast Ohio housing market through real estate message boards, YouTube videos, real estate “guru” newsletters, and the like, creating a web of investors all thinly linked. The original investor likely serves as the statutory agent for any new investors brought in and may even consult on how to structure their investing business to limit liability. Having new investors entering the housing market isn't necessarily a negative occurrence. In fact, as the Cleveland area market recovered, new investors were needed to move abandoned properties back into productive use. Problems occur when new investors in this web do not understand the time and money necessary to properly rehab a home or maintain it as a rental. Often, the original investor has pitched real estate investment as a turnkey enterprise requiring no or minimal additional investment beyond the initial purchase of property.

The resulting investment web ends up looking like a combination of a pyramid scheme and a bad game of telephone. Tracking the different owners within this web is difficult by design, thwarting code compliance efforts. The original investor made money on initial investments, with either successful flips or being able to identify stable rentals. They now obtain residual income through fees associated with serving as statutory agent and possibly through newsletters or videos. The next group of investors in the web doesn't do quite as well and in turn brings in new investors that are handed off those mistakes with misguided or mal-intended advice on how to improve the investment. This continues as the worst properties are dumped onto the least prepared investors. The City of Cleveland has legislation to deal with this endless cycling of the worst properties. Once the structure is condemned, every owner in the chain of title is joint and severally liable for demolition costs and the city can bring a collections suit against any and all owners to recoup costs. However, policies are needed to address property cycling **prior to condemnation** in order to **keep structures in good condition before demolition is the only remedy**.

Property cycling isn't just for the worst properties and isn't just seen in the Web archetype. Through research by the VAPAC Working Group, property cycling was discovered to be in use to avoid legal and financial responsibilities in two different scenarios, although more may exist. Both scenarios can involve a single owner using multiple LLCs if they want to retain ownership long term. The first happens when a violation notice is issued. In Cleveland, an owner has 30 days to correct the violations or file an appeal, often simply for more time to make repairs. However, if the property transfers during that 30-day window the violation notice goes stale, for lack of a better term. An owner looking to get out from a bad investment can find an unwitting buyer and not have to worry about being prosecuted. They could also create another LLC and transfer the property from one LLC to the other, continuing to collect rent or search for that unlucky next buyer. **New policy approaches or legislation are needed to be sure property investors receiving violation notices are held accountable**. The second scenario occurs with utility bills. It has been specifically seen with water bills, and may occur with other utilities. In this case, the owner does not pay the bill, lets the water eventually get turned off, then transfers title to another LLC and gets the water turned back on leaving the utility to try and collect the balance from the previous LLC.

This leads to another policy quagmire uncovered while researching the web archetype. Some of the statutory agents at the center of these webs encourage new investors to set up single asset LLCs. The only asset of the company is the single property titled to it and the challenges that presents are twofold. The first involves code compliance which is really a problem with any residential real estate under corporate ownership, but seems exacerbated when it's a single asset LLC. Many responsible business owners maintain their properties and repair them when necessary. However, there are instances where business owners do not comply with violation notices and must be brought into court. This is where the process of attaining code compliance often stalls, particularly with business owners. Housing code violations are criminal prosecutions. Business owners acting in bad faith simply do not appear in court. A business cannot be jailed and if it is a single asset entity, and fines may not be a sufficient deterrent. That brings us to the second challenge. Cities bill owners when they board a structure, cut the grass, or demolish a structure. If the owner fails to pay the bill, a city will go through the collections process. But if the owner is a single asset LLC, there is nothing to collect. **Policy changes are needed to close the prosecution gap between individuals and businesses and to address the collectability of certain businesses**.

Local Investors from Small to Large

Lastly, it is important to take the time here to discuss local investors generally, regardless of scale. First, there are many smaller investors who reside in the area and hold small portfolios of investment properties. The Center on Urban Poverty and Community Development at Case Western Reserve University published a study³⁴ on Cleveland landlords in September 2020 that provides further details on this type of investor. The authors discovered that 62 percent of landlords utilize a Cleveland address and only 13 percent have an address outside Cuyahoga County. Through this research, three types of investors were discovered, with two types tending to be local small landlords. The first type has a small portfolio of properties that are generally in good condition, with 92 percent owning only one property. Eighty-seven percent of these investors are based within Cuyahoga County. The second type of landlord also has a small inventory with 91 percent owning a single property, but the property tends to be in bad condition. Eighty-nine percent of these landlords are local.

These two types of small investors are sometimes more willing to work with tenants and municipal officials to make sure properties are well maintained. Because they are local, it is easier to hold them accountable for code citations and serve a court summons if needed. These investors tend to be more vulnerable to market cycles and may not have ready access to the cash needed for routine maintenance. In some cases, side agreements are made with tenants to handle some of the maintenance tasks for a reduced rent, or the landlord maintains the property personally by handling many repairs and maintenance tasks. Because credit access can be an issue for these investors, private hard money lenders sometimes provide capital for the purchase and rehab of these investment properties and can foreclose if the mom and pop investor cannot keep up their loan payments.

The third group of investors has larger inventories and is more likely to be based outside of Cuyahoga County. The Poverty Center study identified larger landlords as making up 11 percent of the landlord universe, but 33 percent of rental properties and 30 percent of rental units. However, a portion of the 11 percent was non-local owners for that study. Larger landlords tended to have at least one property in bad condition, higher chance of tax delinquency, and higher chance of owning low value property. It should also be noted that larger landlords may fall into the bulk property manager or agent web archetypes previous outlined, which can often lead to less desirable outcomes for tenants and property. The good news from the Poverty Center study was that larger landlords tended to participate in Cleveland's rental registry. Responsible large-inventory landlords are instrumental in maintaining Cuyahoga County's rental housing stock. The higher inventory better enables them to weather unfavorable market conditions, at least longer than smaller mom and pop landlords. They also typically will have easier access to credit, capital, and expertise to maintain quality housing units. Policies directed to help responsible landlords, from those with one unit to those with more than one hundred, is vital to the overall health of Cuyahoga County's housing market.

³⁴ https://case.edu/socialwork/povertycenter/sites/case.edu.povertycenter/files/2020-10/Landlords_09022020r_accessible%20%281%29.pdf

Policy Recommendations Based on Quantitative and Qualitative Data and Conclusions

As investors, and in particular LLC and other corporate owners, continue to make up a larger portion of residential real estate owners, policy approaches to code compliance, property maintenance programs, and renter/landlord assistance need to keep pace and evolve with the changing housing market. Gone are the days when single-family houses were dominated by owner occupants. While such neighborhoods do still exist, many others have a mix of owner occupants and tenants renting from landlords big and small and other neighborhoods have transitioned to predominately investor owner rental properties. Housing policy, particularly code compliance, needs to reflect this new reality. VAPAC recognizes that any single policy change cannot be seen as a silver bullet to address the rise in irresponsible investor owned residential real estate. Understanding that, adopting as many of these policies as possible will help communities maintain and improve their housing stock, mitigate unscrupulous behavior from investors and landlords, and help tenants have access to high quality rental units. We also recognize that there are many responsible investors who operate in compliance with laws – our recommendations are aimed at investors engaged in practices that undermine community value, health and stability.

Based on over three years of research into investor owned property, VAPAC makes the following policy recommendations. Recommendations are separated out by the type of government entity that should undertake the recommendation and each specific recommendation notes whether it is an administrative change, legislative change, or both.

Recommendations for Municipalities

A) Hold accountable every person or entity with a responsibility to maintain property

Legislative and Administrative

Code compliance actions need to go beyond the titled owner. This is of particular importance when the titled owner is not local to the area or otherwise absentee. The City of South Euclid has had a great deal of success in bringing ***property managers or agents-in-charge*** into court in cases where the titled owner will not appear. They have gained compliance on that particular problem property and also set expectations for other properties managed by the company or agent.

To achieve this result, South Euclid uses two sections from Chapter 1411 of their local ordinances³⁵. The first is 1411.04(d), which designates a local agent for non-local owners: 1411.04(d) NOTICE OF VIOLATION If the owner of any improved real estate is not a resident of Cuyahoga County, such owner shall designate and file with the Housing Manager the name, address and telephone number of an agent who is a resident of Cuyahoga County for the purpose of receiving all notices of inspection, orders, or otherwise from the City of South Euclid relative to such improved real estate. Service of notice upon such resident agent shall be deemed to be notice upon the owner. The second is 1411.05, which allows for the agent as well as the owner to be issued a violation notice: 1411.05 NONCOMPLIANCE WITH NOTICE Whenever the owner, agent, lessor, lessee, occupant or operator of a structure or premises fails, neglects or refuses to comply with any notice of the Building Commissioner or any inspector officially so designated by the Mayor, the Commissioner may issue a notice to such owner, agent, lessor,

³⁵ https://codelibrary.amlegal.com/codes/southeuclid/latest/seuclid_oh/0-0-0-18349#JD_Chapter1411

lessee, occupant or operator that he is in violation and shall advise the Director of Law of the circumstances and request the Director to institute appropriate action at law to compel compliance.

Since 1960, the definition of owner in Cleveland's Housing Code section "means the owner or owners of the premises, including the holder of title thereto subject to contract of purchase, a vendee in possession, a mortgagee or receiver in possession, a lessee or joint lessees of the whole thereof or an agent or any other person, firm or corporation directly in control of the premises (363.12)³⁶." **Despite "agent" being included in the definition of "owner", Cleveland does not currently issue violations to agents.** If it is determined that current codified ordinances do not allow Cleveland to prosecute agents-in-charge, they could adopt legislation similar to South Euclid's. This is also applicable to any municipality not issuing notices to agents-in-charge and/or property managers where appropriate. In addition to South Euclid, Franklin County Environmental Court notes on the FAQ section³⁷ of their website that the City "may choose to cite and bring criminal charges against the owner, the owner's agent, and/or other persons in control of the premises." **With the globalization of real estate, where an owner can reside anywhere in the world, including agents-in-charge on violation notices is a necessary step towards effective code compliance.**

B) Require local agent-in-charge for non-local property owners

Legislative

Building off the above recommendation, **municipalities should require non-local owners to designate a local agent-in-charge to receive official correspondence related to inspections, orders, or otherwise, similar to what is noted in Chapter 1411.04(d) of South Euclid's codified ordinances.** Such a designation will allow direct communication between a person in control of the property and the municipality for purposes of resolving code compliance or other issues. The City of Cleveland has similar language in their rental registration ordinance. Chapter 365.02 (b) (3) states: "If the owner of a rental unit resides or is located outside of Cuyahoga County, the name, current address, telephone number, and email address of an agent designated by the owner, who is a natural person and who resides within Cuyahoga County, and who is authorized by the owner to receive service of a Notice of Violation on the owner's behalf. An agent designated under this section shall be of sound mind and at least eighteen (18) years of age. It is the owner's obligation to notify the Director in writing, of any change in the name, address, telephone number, and/or email address of any agent designated." It should be determined if Cleveland can use this section of code in a manner similar to South Euclid for agent-in-charge code compliance, but if not, what changes need to be made to do so. Other municipalities looking at this type of legislation can use South Euclid's approach as a template.

C) Expedite enforcement of existing property maintenance violations against new owners

Administrative and Legislative

When faced with having to comply with housing code violations, unscrupulous investors have been known to avoid accountability by simply transferring the property to another limited liability company. Many suburbs in Cuyahoga County have had point of sale inspections prior to a property transferring. And while the exact mechanism might vary slightly from one city to the next, there typically was a process for any code violations found during the inspection to transfer from the current owner to the

³⁶ https://codelibrary.amlegal.com/codes/cleveland/latest/cleveland_oh/0-0-0-16193

³⁷ <https://municipalcourt.franklincountyohio.gov/Courts/Environmental-Court/Docket#DocketsFAQs>

new owner. Two recent court decisions have required cities to rethink their point of sale ordinances, opting for exterior only or another mechanism that doesn't run afoul of the recent rulings^{38 39}. The City of Cleveland does not have a point of sale inspection. However, Chapter 367.04 (d) of the Cleveland ordinances states "Any buyer or grantee, by land contract or otherwise, of a dwelling building or structure, shall begin at the date of transfer to comply with any notice obtained or to be obtained pursuant to Section 367.12, and within ten (10) days of the date of transfer, shall notify the Commissioner, in writing, of the actions that will be taken to comply. The Commissioner may then establish a reasonable time to comply."

In addition, Section 5301.253⁴⁰ of the Ohio Revised Code states that housing code violations transfer to the new owner. Specifically, "Any notice or order of a court or of a housing or building authority of the state or a political subdivision that relates to a violation of the building or housing code of the state or any political subdivision and that appears on the public records of the issuing authority **is notice to all subsequent purchasers**, transferees, or any other persons who acquire any interest in the real property in which the violation exists **and may be enforced against their interest in the real property without further notice** or order to them."

Historically the City of Cleveland's Law Department has required that violation notices be served to all parties through certified mail, which **requires the city's Building and Housing Department to retrace its steps and issue a new notice of violation to the new owner**, which in the case of an absentee owner, is often not attainable. Extensive staff resources are expended doing diligent searches to track down all parties, which often are not fruitful. Even though properties are posted with the violation notice, this is not deemed sufficient by the city to meet the requirement of a legal summons. It is vitally important that the work done by housing inspectors and support staff not go to waste simply because a property transferred to a new titled owner. VAPAC recommends that finding a solution to this delay be a top priority going forward for the Law Department and the Building and Housing Department, whether that be through new procedures, new regulations, new city ordinances or a change in state legislation.

D) Make better use of both criminal and civil proceedings for code compliance

Administrative and Legislative

Often, simply receiving a violation notice is enough to get an owner to comply. They may not have realized there was an issue or had simply been putting off the repair. For many other owners, the court appearance with possible criminal consequences is usually enough to gain compliance. There are some owners though, usually investors and often a business, where compliance can be difficult to achieve. Misdemeanor criminal proceedings mean little to an out of state investor or a business. A business does not fear jail time or a criminal record. In these cases, there should be a dual criminal and civil approach to gaining compliance. Franklin County offers an example through Columbus ordinance Chapter 4701.99 D. In addition to criminal penalties, the court may impose a civil forfeiture of \$100 for each day the owner has failed to comply. The director may then file a civil action to recover any accumulated civil penalties. This dual approach can prove effective, especially for investors concerned about their bottom line. Additionally, flexibility in code compliance proceedings may become necessary given the recent changes to Ohio law now allowing for the creation of what are called "series LLCs" in Ohio Revised Code section 1706. Cleveland and other Ohio cities' criminal code enforcement systems are currently ill-

³⁸ <https://casetext.com/case/jason-thompson-2408-hillview-llc-v-city-of-oakwood-1>

³⁹ <https://casetext.com/case/pund-v-city-of-bedford-1>

⁴⁰ <https://codes.ohio.gov/ohio-revised-code/section-5301.253>

prepared to effectively address the potential for bad actors to use series LLCs as vehicles to escape accountability.

E) Expand right-to-counsel and enact pay-to-stay and source of income legislation

Legislative

Cleveland City Council passed a right-to-counsel ordinance in October 2019. While the pandemic presented unique challenges to the roll out of the program, 93% of tenants receiving help under this program from July 2020 through December 2020 avoided eviction or an involuntary move. Additionally, landlords received \$3.8 million in rent relief administered by Cleveland Housing Network through the legal assistance provided to tenants⁴¹. A story by WKSU notes that half of tenants seeking to remedy bad conditions in their rentals were able to do so⁴². Without right-to-counsel representation, those tenants would likely be evicted and a new tenant moved into the unit as it remained substandard. Currently, right to counsel is available for families with children who are at or below 100% of the federal poverty line. VAPAC recommends working towards expanding this program based on its initial successes.

A companion recommendation to expanding right to counsel is to enact pay-to-stay legislation⁴³. Ohio is one of only five states to allow landlords to file evictions immediately for nonpayment of rent. As noted in the Bulk Property Manager archetype, some property managers appear to use evictions to boost fee collection from owners. Pay to Stay would be a good way to curb this practice where property managers are filing to evict immediately for nonpayment. Under Pay to Stay, landlords receive full rent due and do not experience loss of income while placing a new tenant if an eviction had taken place. Tenants are able to remain in their unit and not experience housing instability. Pay to Stay should not be used as the sole reason to keep tenants in a rental unit if there are other reasons to evict beyond nonpayment of rent.

The State of Ohio provides no protection to tenants based on source of income. Only a handful of cities in Northeast Ohio currently offer such protection. This means that landlords can refuse to rent to a tenant based on their source of income, often making it an uphill battle for tenants with Housing Choice Vouchers or disability income to find stable housing. Expansion of source of income county-wide would go a long way towards helping low income tenants find and retain stable housing and help level the playing field for all tenants.

F) Enhance enforcement of rental registration and lead safe certification ordinances

Legislative and Administrative

VAPAC encourages the City of Cleveland and other municipalities to continue and/or recommit to efforts aimed at increasing rental registration compliance and compliance with lead safe certifications. Compliance with both ordinances go hand in hand. This should include cross referencing data sources from partners both internal and external to a city as well as community groups. There should also be sharing of rental registration database information between municipalities. If initial outreach does not

⁴¹ <https://www.unitedwaycleveland.org/right-to-counsel-prevented-93-of-cleveland-family-evictions-in-first-six-months-of-program-that-provides-low-income-tenants-with-free-legal-assistance/>

⁴² <https://www.wksu.org/government-politics/2021-07-02/cleveland-right-to-counsel-shows-promising-early-results-for-tenants-and-some-landlords>

⁴³ <https://static1.squarespace.com/static/59e6491b9f8dce817446bdc6/t/6008a1fce8399468907e8b6d/1611178492595/P2S+1-Page+%285%29.pdf>

result in compliance, escalating enforcement actions should be taken until compliance is gained. Registered rentals that are property tax delinquent should be referred to the county for additional outreach in order for the property owner to enter into a payment plan. A robust rental registration is in the best interest of a city's residents, rental housing stock, and the case of Cleveland, the Lead Safe Cleveland initiative.

G) Require an interior and exterior inspection including assessing lead hazards every three years

Administrative

Working within the confines of the Ohio Supreme Court's Portsmouth⁴⁴ decision, municipalities in Cuyahoga County should work to inspect all rental properties every three years. Each municipality should also have a program in place to ensure that rentals are lead safe. Cleveland's lead safe initiative has begun and the Lead Safe Auditor is monitoring progress⁴⁵. The successes and failures of this program will be important for other municipalities to watch as they consider their own lead safe legislation.

H) Consider conducting a new door-to-door property survey and begin focusing on occupied C-D-and F properties

Administrative

The last citywide property survey in Cleveland was conducted by Western Reserve Land Conservancy in the summer of 2015⁴⁶, over six years ago. The majority of east side neighborhoods were resurveyed in 2018⁴⁷. While immensely helpful at the time, those surveys are now outdated. A new survey would identify areas of the city that have experienced improved property maintenance and other areas that would need a concentrated effort of multiple city departments to provide repair capital and code compliance actions. It would also provide an excellent point in time data piece for estimating vacant and distressed structures. Suburban municipalities should also consider surveys depending on circumstances. Neighboring cities could partner to create economies of scale, and attract grant funding for a property survey project.

I) Create an MOU between public housing authorities and the City of Cleveland similar to what is in place in inner-ring suburbs

Administrative

Some suburban municipalities have entered into cooperation agreements with the Cuyahoga Metropolitan Housing Authority (CMHA) which provide them with notice of proposed CMHA-covered units. This allows city officials to deny occupancy of substandard units or withhold rent at a unit with an existing housing voucher until it is brought into compliance. Such an agreement should be created between the City of Cleveland and CMHA.

⁴⁴ <https://casetext.com/case/baker-v-city-of-portsmouth>

⁴⁵ <https://case.edu/socialwork/povertycenter/our-work/lead-safe-research/lead-safe-auditor>

⁴⁶ https://www.wrlandconservancy.org/wp-content/uploads/2016/08/ClevelandPropertyInventory_issuu_updated122016.pdf

⁴⁷ <https://www.wrlandconservancy.org/articles/2019/03/20/cleveland-property-inventory-2018/>

J) Simplify the process of obtaining building permits and scheduling required inspections

Administrative

The City of Cleveland has done a lot of work to modernize its permitting process, but many of these improvements, such as online permitting, remain opaque to the average investor or mom and pop landlord. The City's website is outdated and navigating to find information on permitting is daunting. The website needs to be modernized and needs to be customer focused. For the permit types that are able to be done online, everyone should be able to access these easily, not just larger contractors. The CWRU landlord study outlined the large number of small landlords. These small businesses should be able to pull the permits they need with ease, allowing their tenants to remain in a unit that is up to code.

K) Consider passage of a foreclosure bond ordinance for vacant properties

Legislative

Foreclosure bond ordinances require a financial institution to post a bond upon filing a mortgage foreclosure, typically in an amount equal to the cost of demolition, with the local municipality for the purpose of protecting taxpayers from absorbing the cost of demolition or other nuisance abatement if the foreclosing institution fails to keep a vacant property up to code during their control of the property. While originally created at a time when mortgage foreclosure and abandonment were epidemic, such ordinances can still serve to encourage banks to keep properties in good condition throughout the foreclosure process and their ownership tenure. This ensures that an investor who buys the property from a bank has a decent property to start with either for rehab or for rental. It can also keep the property condition competitive for a potential owner occupant as well.

L) Municipal budgets should prioritize code enforcement and building permitting

Administrative and Legislative

Building departments bring in revenue through permitting fees and registrations. **Budgets for building and housing departments should, at minimum, match the revenue they bring in.** For the City of Cleveland, revenue was greater than expenditures by approximately \$6 million in 2019, \$3 million in 2020, and an estimated \$4 million in 2021. While recognizing the importance of being fiscally prudent, especially during the COVID-19 pandemic, such a gap between revenue and expenditures should be narrowed significantly **in order to provide citizens the service levels they expect from their building department.** Additionally, it may be helpful to think of code enforcement as an arm of public safety. There are too many examples where vacant, abandoned, distressed housing contributes to crime. In this scenario, providing funding in excess of revenue would be warranted.

M) Support neighbors of condemned properties in securing statutory damage awards

Administrative

Property ownership carries both fundamental rights and fundamental responsibilities, or duties. The right to own and enjoy property is conditioned by the duty to maintain that property and to see that such property does not interfere with the rights of other property owners to enjoy their own property. But in many Cleveland neighborhoods the rights of quiet use and enjoyment in and of their own homes, which many working families sacrificed dearly for and particularly which immigrant families and families of color fought vicious discrimination to obtain, have been severely damaged by a glut of condemned and condemnable buildings. These deplorable building conditions can leave many residents feeling

under siege in their own homes and directly contribute to declining property values and population. Although Ohio law grants neighbors the right to seek limited redress through civil injunctions against owners of condemned and condemnable properties, it does not recognize a fundamental common sense reality: that living next to or nearby a condemned building causes significant, often times unquantifiable harm to adjacent and neighboring property owners above and beyond the harm such building conditions cause the general public. However, there is often no reasonable financial incentive for low to moderate income homeowners - the most affected by condemned properties - to accept the burden and offset financial cost of pursuing these valid claims. Ohio law already grants local municipalities the power to create provisions in local code for statutory damages, and the City of Cleveland has for many decades seen fit to enact such statutory damages provisions favoring tenants in instances where landlords engage in particularly egregious conduct. We believe that extending statutory damages and reasonable attorneys' fees provisions to homeowners who take direct action against condemned and condemnable buildings will provide further incentive to keep properties from falling into deplorable condition, ease the immense pressure on limited municipal building inspection resources, and fairly compensate homeowners who have endured these conditions while choosing to stay and fight for their neighborhood's improvement instead of selling their homes and leaving.

Recommendations for Municipalities and Counties

N) Make repair loans accessible to mom-and-pop landlords through a loan-loss reserve fund and provide significant grant funding for lead remediation

*****Legislative*****

Many of the county's Mom and Pop landlords operate on extremely thin margins. They likely have enough reserves for regular maintenance, but bigger ticket items like roofs, windows, porches, and furnaces are probably beyond a standard operating budget. Having a loan fund available for these types of landlords would keep them in business and keep their tenants housed without displacement. A certain portion of the fund should be set aside specifically for lead remediation.

O) Ensure that adequate funding is available to demolish vacant parcels that cannot reasonably be rehabilitated

*****Administrative and Legislative*****

The City of Cleveland has had approximately 4,000 vacant and distressed parcels for the past year or two. Mayor Jackson and City Council have been committed to razing these structures as evidenced by recent budget allocations, but future demolition funds are still needed. Many of these 4,000 structures are often ripe for abuse by unscrupulous investors. They buy and speculate without rehab, or flip to unsuspecting buyers. Commitment to funding demolition needs to remain at the local and state level until the number of properties drops to a point where rehabilitation becomes more financially feasible to responsible investors.

P) Support programs to increase homeownership in neighborhoods with high investor activity

*****Administrative and Legislative*****

Potential owner occupants often find it difficult to compete with investors. Investors are often offering cash or already have access to a line of credit. They also often care less about necessary repairs. Because of these disadvantages facing many owner occupant buyers, providing assistance to them to level the

market for all buyers would provide stability for many neighborhoods overrun by investors. Examples of such programs could include down payment assistance or working with housing counseling agencies and lending institutions to create pathways for tenants to achieve homeownership.

In one of the more aggressive programs to date, the Port of Greater Cincinnati Development Authority purchased 194 rental homes in Hamilton County for \$14.5 million, outbidding private investors^{48 49}. Initially, the homes will remain rentals. The Port plans to improve the homes with the intention of eventually selling to tenants, creating opportunities for affordable home ownership. A similar type of program should be explored for Cuyahoga County. The program would not necessarily need to be countywide like in Hamilton County. Such a program could have success at a smaller scale where it could be run through a CDC or other neighborhood organization.

Q) Create a program to bring responsible ownership to occupied properties that are tax foreclosed and end up in the State of Ohio Forfeited Lands inventory

Administrative

Not every property that makes it into the state forfeiture inventory is vacant and distressed. Some are occupied and these present unique challenges and would require a responsible owner to meet those. Creating a program or pipeline for investors that meet those qualifications is important to prevent properties from continuing to cycle through state forfeiture. An example of this is a program run by South Euclid's community development corporation, One South Euclid, through their Build, Grow, Thrive program. Investors are identified who are willing to take ownership of the property, make needed repairs and rent back to the occupant at a below market rent; or rehab and resell to an owner-occupant.

R) Re-constitute and expand the City of Cleveland's Bulk Holder Task Force, with input from the Cuyahoga County Fiscal Office, to more efficiently coordinate resources related to achieving code compliance and prevent fraudulent conveyance of distressed property

This paper has earlier noted many of the challenges faced when holding out-of-state property investors accountable, or even local investors who frequently operate through one or more, and sometimes many fictitious name companies. It has also been noted, in this paper and elsewhere, that real estate transfers of distressed property can be made to avoid tax foreclosure, water shut offs, and compliance with code violations and made in furtherance of fraudulent enterprises. Such activity has been noted by government agencies at multiple levels. Given the size and scope of this problem, this paper advocates re-constituting and properly funding the existing Bulk Holder Task Force. Such a task force must be able to overcome the "silo effect" which creates undue inefficiency and haphazard enforcement in the face of well-organized, legally sophisticated, and highly capitalized bad actors. With proper access to inter-departmental data and supplemented by close coordination with the County Fiscal Office the task force could more effectively and efficiently halt the kinds of nefarious property activities which weaken neighborhoods. To achieve maximum effectiveness, the task force should also be given authority to explore and use non-traditional strategies, for example, as noted earlier in recommendation (D), utilizing *in rem* civil enforcement actions giving the court jurisdiction over the *property* to protect the public health, safety and welfare in addition to *in personam* criminal enforcement actions against corporate *owners* for crimes. As noted throughout this paper, factual data indicates the most egregious cases of chronic, serious noncompliance are perpetrated by predatory corporate entities that rarely appear in

⁴⁸ https://www.wsj.com/articles/cincinnati-agency-buys-nearly-200-rental-homes-thwarting-private-investors-11642510803?st=ce3trh9r83hcrdy&reflink=desktopwebshare_permalink

⁴⁹ <https://www.wvxu.org/local-news/2021-12-08/the-port-buys-200-rental-homes-make-tenants-homeowners>

court and are not subject to jail time, a reality which may only become more pronounced now that the State Legislature has allowed series LLCs to freely operate in Ohio. A task-force, sufficiently funded and organized, is necessary to properly hold these actors accountable.

Recommendations for Counties and Regional Partners

S) Explore the creation of a county level housing court, similar to Franklin County’s Environmental Court

*****Collaborative*****

Cuyahoga County is served by 13 municipal courts that handle misdemeanor offenses, which includes housing code violations. Only one, the Cleveland Municipal Court, has a specific division dedicated to housing and the unique circumstances that come from these cases. VAPAC recommends exploring the creation of a county level housing court, similar to Franklin County’s Environmental Court. The benefits of such a court could be numerous. First, evictions could all take place in one court. As we saw during the pandemic, it was difficult for both landlords and tenants to know exactly how each jurisdiction was handling eviction moratoriums or other policies related to evictions. Landlords would have one point of contact for evictions, tenants as well. Eviction diversion and mediation programs would have a single home.

Investors owning property with code violations or other outstanding issues would have a single jurisdiction overseeing their operations. Having a single point of contact could be advantageous for an investor. Perhaps they bought a rental portfolio and need to work to correct violations in multiple municipalities. This single jurisdiction would also be beneficial for municipal code enforcers. Once a bad actor gets under the purview of a county housing court, the court could monitor their properties across municipal boundaries.

Lastly, it is important to point out the content knowledge and expertise that dedicated staff would bring to housing issues across Cuyahoga County. A housing court staff knows what programs are available to property owners to help make repairs. They can similarly assist tenants as it relates to eviction help, rent in escrow, and other tenant focused policies. A dedicated housing court staff would work with municipalities on issues related to community control orders. Having housing experts at all three branches of government benefits owners, landlords, tenants, and neighbors.

T) Establish a county housing trust fund to provide shallow/partial rent subsidies and security deposit assistance for vulnerable tenants

*****Legislative*****

VAPAC encourages Cuyahoga County to create a housing trust fund⁵⁰ to provide shallow rent subsidies and security deposit assistance for vulnerable tenants. Housing trust funds can be quite flexible and designed to address specific local needs or situations. Ideally, funding would come from a dedicated source to eliminate the need to find funds during each budget cycle. While we recommend the purpose be for rent and security deposit assistance, an adequately funded housing trust could also aid in home repairs through a grant or low interest loan program among other priorities.

⁵⁰ <https://localhousingsolutions.org/housing-policy-library/housing-trust-funds/>

U) Re-establish the Cleveland Tenant's Organization (CTO)

Collaborative

CTO suspended operations in early 2018. Its tenant hotline has lived on at Legal Aid Society of Cleveland and Legal Aid has also taken on some the eviction diversion work that had been done by CTO. Unfortunately, much of CTO's prior work has been discontinued. One important aspect of CTO's former operations was helping tenants form associations to help advocate for repairs and better treatment from landlords. While that was largely building-based, a re-established CTO would have a different landscape where many renters are scattered across Cuyahoga County in single-family rentals. Tenant associations could be effective if they were neighborhood based or possibly associated with an active block club.

V) Utilize the power of deed recordation to leverage compliance with laws (county level)

Legislative and Administrative

The most problematic properties are often those in poor condition that transfer from one investor to another repeatedly, finally ending up in the hands of the least capable investor. Ohio's system of deed recordation is provided at tax payer expense for the convenience, benefit and protection of property owners. In the case of unscrupulous investors described in this paper, we question whether they should be provided that benefit at tax payers expense if they are simultaneously failing to comply with other laws: failing to pay property taxes, failing to register their business with the Secretary of State, failing to comply with rental registration and lead-safe certification laws, and failing to comply with other housing, health and safety laws? In a variety of ways non-compliance with laws inevitably imposes a cost burden on counties, municipalities and tax payers. We recommend two possible approaches counties should explore.

1. Enhanced collection of information. Ohio Revised Code section 319.202 requires that the conveyance of real estate must include a declaration of the property's value, generally referred to as the "conveyance fee statement", which must be submitted to the county auditor. However, 319.202 also says the statement can include "**other information as the county auditor may require**". The standard conveyance fee statement form used in Ohio is the DTE100 form. The second half of the form is a questionnaire which may vary from county to county. Cuyahoga and other Ohio counties should consider editing this form to collect important information that would aid governmental agencies to hold unscrupulous investors accountable: names of individuals controlling LLCs, names of individuals controlling property management companies, contact information for individuals including phone numbers, email addresses, etc.
2. Withhold deed recordation pending compliance with laws. A second approach would be to withhold the privilege of utilizing the county's deed recordation system until property taxes are paid and other state and local laws are complied with. Those who flaunt state and local laws - and in doing so create a burden on tax payers - should not be afforded the benefit of tax payer funded systems provided for their convenience. Further research may be required to determine whether Ohio counties have the authority to employ this approach in whole or in part. If they do not, solutions at the State level should be explored (see below).

Recommendations for the State of Ohio

W) Utilize the power of deed recordation to leverage compliance with laws (state level)

*****Legislative** - State of Ohio***

For the reasons noted in recommendation V, above, pursue state legislation that would authorize county auditors and/or fiscal officers to withhold deed recordation in the case of unscrupulous investors who are failing to pay property taxes or otherwise in violation of state and local laws.

X) Simplify the rent-in-escrow process for tenants in substandard properties

*****Legislative** - State of Ohio***

The Ohio Revised Code allows tenants to place rent in escrow⁵¹ with their local clerk of court⁵² provided certain conditions are met. In practice, this can be a complicated process for many tenants. VAPAC recommends simplifying this process however possible. If it cannot be done at the local level, we recommend exploring if a bipartisan solution can be found at the state level.

Y) Modify the on-line Sheriff Sale process and state forfeiture auction to require enhanced buyer information (proof of address, cell phone and email information) and the naming of a local contact person for out of state purchasers

*****Legislative** - State of Ohio***

The move to online Sheriff Sales has opened up the purchase of distressed properties to anyone with an internet connection. Bidders may not understand the conditions of the property they are trying to purchase or the market conditions in the surrounding neighborhood. Because of the condition of many Sheriff Sale and state forfeiture properties, communication with local government is key to returning these properties to productive use. Therefore, it is recommended that buyers at these sales provide proof of address, cell phone number, email address, and the same information for a local contact if the buyer resides outside of Cuyahoga County. In addition, requiring the uploading of a photo ID, such as a driver license or passport would provide extra assurance that municipal officials can properly identify responsible parties in control.

Z) Increase funding for locally-based mission driven affordable housing providers and rehabilitation efforts

*****Legislative** - State and Federal***

Although the majority of this paper's recommendations are focused on accountability to ensure code compliance and good faith housing market activity, the authors recognize that part of the issue faced is an overall lack of supply of affordable housing. Given the necessity to increase pathways to homeownership and local control of rental property, additional funding should be made available to address the needs of both new construction as well as rehabilitation, managed by both for-and not-for-profit entities with successful track records of managing affordable rental housing, returning vacant properties to habitability, and selling homes to owner-occupants at fair prices.

⁵¹ <https://codes.ohio.gov/ohio-revised-code/section-5321.07>

⁵² <https://codes.ohio.gov/ohio-revised-code/section-5321.08>

Recommendations for the Federal Government

AA) Investigate the disparate negative impact of investment patterns and negative outcomes faced by communities of color.

***Legislative** - State and Federal*

This paper has illustrated that a majority of current investment activity is taking place in predominantly African-American communities and in such manner that in many cases, outcomes are worse after rental properties have passed into the hands of successive business entities and absentee owners. We believe that such activity is part of the larger legacy of continued racial bias in the American housing market, insofar as households of color are offered an inferior product -substandard housing- at a higher price. Such persistence of this imbalance demands a full and formal investigation and remedy consistent with the federal mandate to ensure equal protection under law.

1. Consider creating policies that level the playing field for homeowners, providing those with the means to become homeowners, the ability to compete with cash buyers.
2. Require additional disclosures in real estate transactions involving business owners to ensure that an individual must be identified who can be legally held accountable for property condition. In recognition of the disparate impact that abusive lending practices have on people of color communities, Congress enacted laws requiring greater disclosures and protections in mortgage lending transactions. Similarly, Congress should consider enacting stronger disclosures for investor-driven real estate transactions that are undermining the housing stability and property value of people of color communities.
3. Consider reforms to the Community Reinvestment Act (CRA) to ensure that Low-and-Moderate Income Communities are receiving fair access to credit and that affirmative marketing practices are occurring. Ensure that banks are held accountable for the meaningful application of CRA, as opposed to receiving outstanding CRA ratings without fundamentally meeting community credit needs.

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