ADDRESSING PROBLEM PROPERTIES: LEGAL AND POLICY TOOLS FOR A SAFER RUNDBERG AND SAFER AUSTIN

A REPORT PREPARED FOR GREEN DOORS

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SECTION 1. INTRODUCTION

This Report provides information and recommendations on legal and policy tools that could be utilized to improve public safety and the quality of life in the Rundberg area of Austin by addressing problem properties. We prepared this report specifically to help inform community and city efforts in the Restore Rundberg Initiative. The Initiative, which is funded in part by a $1 million Byrne Criminal Justice Innovation Program grant from the U.S. Department of Justice, is being administered by the Austin Police Department in order to "improve the quality of life, health, safety, education, and well being of everyone living and working in the Rundberg Neighborhood."[1] While we focus on the Rundberg area, our policy recommendations are applicable citywide and to any Austin neighborhood confronted with problem properties.

For purposes of this Report, a problem property is defined as a residential or commercial property that is a source of repeated criminal activity or is in dangerous physical condition, posing an immediate health and safety hazard to its residents or neighbors. These two factors are often linked—properties that are the generators of repeated criminal activity are also often in dangerous physical condition.

After providing a brief overview of the Rundberg area in Section 2, the Report lays out the following legal and policy tools:

- Criminal Nuisance Abatement (Section 3)
- Private Nuisance Actions (Section 4)
- Code Enforcement (Section 5)
- Rental Registration (Section 6)
- Additional Tools (Section 7)

The Report ends with a set of policy recommendations in Section 8.

This Report was prepared for Green Doors by faculty and students in the Entrepreneurship and Community Development Clinic at the University of Texas School of Law. This Report reflects the legal research and opinions of the Entrepreneurship and Community Development Clinic only, not any official position of the Law School or the University of Texas.

The Report was prepared after multiple meetings and conversations with city staff in multiple departments, neighborhood leaders, and officials in other cities overseeing problem property initiatives, as well as extensive independent research on best practices and consultations with national experts. The Report also builds on prior work of the Clinic conducted from 2006-2009 on problem properties for community groups in the City of Dallas[2] and the Clinic's development of a statewide toolkit on problem properties, The Texas Problem Properties Toolkit.[3]

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SECTION 2. BACKGROUND ON THE RUNDBERG AREA

The Rundberg area, as defined in the Restore Rundberg initiative, contains approximately 38,000 residents, covers three council-adopted neighborhood planning areas, and encompasses a 5.74 square mile area of Austin, with 2 percent of the city's area and 5 percent of the city's population. See Appendix 1 for a map of the area. The City defines the boundaries of the area as follows:

> Research Boulevard/Anderson Lane to the south; railroad tracks (just west of Metric) and Lamar to the west; Interstate 35 and Cameron Road to the east; and, Rutland Drive, Braker Lane, Floradale Drive, and Applegate Drive to the north.[4]

With a diverse population of close to one in three foreign-born residents, the Rundberg area is much poorer than the rest of the city, with a median income of just over $21,000. The Rundberg community is characterized by a diversity of affordable housing stock, including single-family residences, small and large multifamily residences, and budget motels that are used as both short-term and long-term rentals. Rents average $400 to $750 per month and are thus considerably lower than rents citywide, which average $830-$1050 for one- and two-bedroom apartments. City staff with the Austin Police Department and Code Compliance Department report that many rental properties in the area are owned by out-of-state investors and managed by absentee landlords.

High levels of criminal activity are a persistent issue in the Rundberg area. The area accounts for a high percentage of the reported crimes in Austin—9 percent of the city's crimes occur there, including 11 percent of the city's violent crimes and 7 percent of the city's property crimes.[5] A number of the city's crime hot spots are located in Rundberg. One of these spots is the intersection of Rundberg and IH-35, where, according to one Austin police officer, "a hard-core population of thugs and criminals" takes over at night.[6] The visibility of open-air drug markets, prostitution, and loitering on the streets and around certain businesses all contribute to a lower quality of life in large swaths of the area.

Problem properties, from drug houses to substandard buildings and budget motels, are heavily concentrated in the Rundberg area, placing a heavy burden on city resources. For example, in the City of Austin's fiscal year 2011-12, 16 percent of the City's code cases for rental properties with repeated notices of violations were located in the Rundberg area.[7]

SECTION 3. CRIMINAL NUISANCE ABATEMENT

One challenge that the Rundberg area and other Austin neighborhoods face is a concentration of individual properties generating a high volume of criminal activity, such as drug dealing, gang activity, and prostitution. For example, in just a 10-month period a few years ago, the Budget Lodge motel in Rundberg generated 463 responses from emergency services (including police) and 103 police reports. Additionally, research reveals that that just 2 percent of the addresses in the Restore Rundberg project area account for 60 percent of the calls for service, which is a fact mirrored in many cities nationwide.[8] Repeated police arrests ultimately have little effect in reducing criminal activity at these types of problem properties unless the source of the crime is addressed.[9]

Criminal nuisance abatement is a critically important, "place-focused" tool used by dozens of cities around the country to address the source of the crime—the problem property. Using interdisciplinary, problem-solving oriented approaches, police and other city officials work together—and with the property owner, if he or she is cooperative—to analyze what is causing the high rates of crime at the property and what approaches could be taken to abate (i.e., eliminate) the criminal activity, given the unique circumstances of the property. For example, if a property is operating as a drug house, abatement actions could include evicting the tenants, removing pay phones, adding security lighting, hiring a security guard, and incorporating security cameras.

If the owner is uncooperative, many cities have authority to bring a lawsuit against the owner or property and obtain a court order requiring the abatements to be made or for the property to be shut down. Many different types of properties are subject to nuisance abatement actions, including motels, convenience stores, single-family homes, vacant lots, and apartment complexes.

Studies have established that nuisance abatement is a very effective tool for lowering crime at nuisance properties.[10] By shutting down criminal activity at just one high crime property, a city can make a significant dent in lowering police calls to an area and improving the quality of life in a community.

A. Texas Criminal Nuisance Abatement Law

In Texas, a criminal nuisance abatement action can be brought under Chapter 125 of the Texas Civil Practice and Remedies Code to abate one of two types of nuisances: common nuisances and public nuisances. The statute applies to most types of properties including hotels and motels, commercial establishments, single-family homes, and multifamily complexes. A common nuisance occurs when a property serves as the location for habitual criminal activity, including drugs, gambling, and prostitution. A common nuisance abatement action can be brought against the property ("in rem"), the property's owner or manager, the tenants, or the person

who uses the property for the nuisance activity.[11]

A public nuisance occurs when a property is habitually used for gang activity. A public nuisance suit can be brought against any person who owns or is responsible for maintaining a property being used for habitual gang activities. Unlike common nuisance actions, the property itself may not be sued.[12]

Both types of nuisance abatement actions are based upon a showing that the property owner knowingly tolerated the illegal acts on the property and failed to make reasonable attempts to stop them. A suit to abate and enjoin a common or public nuisance may be brought by: (1) an individual; (2) the district, county, or city attorney; or (3) the Texas Attorney General.[13]

In a common nuisance suit, the court may consider the fact that an illegal activity is frequently committed at a property as evidence that the defendant knowingly tolerated the activity.[14] The court may also consider evidence that persons have been arrested for criminal activities on the property, evidence of the general reputation of the place, and evidence that the defendant refused to cooperate with law enforcement with respect to abating the criminal activity.[15] As a precondition to filing a nuisance abatement lawsuit, the party filing the suit must first consider whether the property owner promptly notified law enforcement of the occurrence of criminal acts on the property and whether he or she cooperated with the law enforcement investigation.[16]

Prior to filing a nuisance abatement suit, cities typically give the property owner an opportunity to abate the nuisance, with a face-to-face meeting and a written agreement laying out all the steps the property owner needs to take to abate the nuisance. Most nuisance abatement actions never involve filing a lawsuit—the threat of a lawsuit and the meeting with police and code enforcement officials is enough to persuade the owner to take actions abating the nuisance and to significantly reduce crime on the property. [17]

In the event a lawsuit is necessary and the party bringing the suit is successful in the lawsuit, the court will issue an injunction ordering the property owner to abate the nuisance. Typically, the court will issue a preliminary injunction first and a permanent injunction and penalties, as appropriate, after a trial on the merits. The court order typically includes specific steps the owner must take to improve the property. In a common nuisance suit brought against the property (versus just the owner), the court must order that the property be closed for one year after the date of judgment. Violation of the injunctive order can subject the property owner to a fine of $1,000 to $10,000 and confinement in jail for 10 to 30 days.[18] A court can also appoint a receiver for a multifamily property to take over the operations of the property for up to a year.[19]

Evidence used in a nuisance abatement action usually consists of some or all of the following: arrest reports, citations, search warrants, incident reports, complaints,

and calls for police service at the property, along with videotapes or photographs of illegal behavior conducted on the property. A good nuisance abatement case should have proof that multiple criminal acts occurred on the property within an abbreviated time period. The Attorney General's manual on nuisance abatement, for instance, provides an example of a property involving six or more arrests for the same type of illegal activity within the past six months to a year.[20]

B. Austin's Use of Criminal Nuisance Abatement

The City of Austin dedicates very limited resources to criminal nuisance abatement in comparison to peer cities and is thus missing out on an important tool to reduce crime in neighborhoods. In contrast, as discussed below, other cities in Texas and around the country have dedicated much more robust resources for investigating and prosecuting criminal nuisance abatement cases.

Locally, criminal nuisance abatement cases are initially handled in the Austin Police Department's (APD) Nuisance Abatement Unit. From 2001 until May 2013, APD had only one detective assigned to its Nuisance Abatement Unit, adding a second detective to the Unit in May. The Department plans to add a third police officer to the Unit by fall of 2013. The two current detectives in the Unit are responsible for all criminal nuisance abatement cases in Austin and also split their time with APD's Alcohol Control Team.

As of this spring, APD had approximately 60 open criminal nuisance abatement cases, with a handful in the Rundberg neighborhood. The Nuisance Abatement Unit opens its cases based on referrals from APD officers (most commonly, APD district representatives, the crime intervention team, and narcotics) and other city departments such as the Code Compliance Department, and also relies on tips from citizens. APD does not have any systems in place for automatically flagging properties for nuisance abatement intervention when a certain amount of criminal activities occur on the property. After a case is opened and the case is investigated, the nuisance abatement unit sends a certified letter to the property owner and attempts to set up a meeting to go over what steps the property owner should take to abate the nuisance. In some cases, property owners will refuse to accept the letter from APD and refuse to meet.

If the property owner does not abate the nuisance within a sufficient time and the criminal activity persists, the APD detective may send the case to the City Attorney's office. "Sufficient time" is a subjective standard applied by APD that is not statutorily defined. APD has been sending only the most severe cases to the City Attorney's office. As of June 2013, the City Attorney's office had four open criminal nuisance abatement cases and had not yet filed a lawsuit suit against the property owners in those cases. None of the cases are in the Rundberg area. Yet, APD criminal incident data for 2012 reveal that more than 150 addresses in the North Lamar Combined Neighborhood Planning Area alone, which comprises the central portion of the Restore Rundberg project area, had 3 or more reported crimes to APD.[21] The only

criminal nuisance abatement lawsuit (in any part of the city) that the City Attorney's office has filed in many years was the Budget Lodge case in 2008, discussed below. One recent improvement that APD has made is creating a new online spreadsheet system, which allows officers to more easily track the status of open nuisance abatement cases.

Austin's nuisance abatement officers are overwhelmed with the 60 nuisance abatement cases they have open now. Because of the Unit's limited staffing capacity, APD is unable to pursue nuisance abatement actions in many situations that warrant this tool. For the cases that are open, APD is unable to routinely monitor and follow up on all the letters it sends to property owners to verify that the property owners took actions to abate the nuisance.

These limitations reduce the effectiveness of nuisance abatement as a tool for reducing crime in Austin neighborhoods. A study of nuisance abatement practices in San Diego found that crime fell by 60 percent at properties over a 30-month period where the police sent a letter threatening closure of the property and then followed up with a face-to-face meeting laying out actions to take and worked with the property owner to make sure the changes were made. [22] In contrast, at properties where there was no follow-up action beyond the initial letter, the reduction in crime was not statistically significant.[23]

The City of Austin's ability to use nuisance abatement as a tool for fighting neighborhood crime and improving the quality of life in communities is also limited by its failure to dedicate sufficient city attorney resources to prosecuting nuisance abatement cases. The City Attorney's Office has only three attorneys assigned to all affirmative litigation cases brought by the City. One of these attorneys is working almost exclusively on collections cases, and the other two attorneys are spending approximately 60 percent of their time on defensive litigation. Their affirmative docket includes a very broad range of other affirmative cases, leaving less than 20 percent of their time to work on code and nuisance abatement cases, which also includes environmental cases. In the eyes of APD, this means that many of the worst property owners could care less about receiving a nuisance abatement letter from APD, because they know no there will be no city enforcement down the road to back up the letter.

There has been very little on-going collaboration and communication between the City Attorney's Office and APD in regards to the prosecution of nuisance abatement actions. The City Attorney's Office is typically not engaged with nuisance abatement actions until after APD refers a case over to them, rather than assisting with the preparation of letters to the property owners and providing on-going advice about the best ways to investigate the case in preparation for going to court.

Once APD refers a case to the City Attorney's Office, APD typically does not hear back from the City Attorney's Office for many months as to the status of the case. For example, in one case that APD referred over to the City Attorney's Office, the

Nuisance Abatement Unit did not hear back from the City Attorney's Office for 18 months. After that much time has passed, the 12-month period for tracking the abatable offenses has passed and APD has to reopen its investigation. APD reports that it plans to start working more with the City Attorney's Office to develop better relationships and figure out how to get nuisance abatement cases prosecuted more quickly.

The most high profile nuisance abatement case in Austin over the past decade involved the Budget Lodge motel in Austin. In 2008, the City of Austin filed a nuisance abatement lawsuit against Larry M. Hall, owner of Budget Lodge, a motel located on the intersection of IH-35 and Rundberg Lane. Even though the motel was known to be hotbed of criminal activity in the neighborhood (463 documented incidents that necessitated a response from City of Austin emergency services in a 10-month period and approximately 103 police reports), the City's nuisance abatement lawsuit came about only after multiple neighborhood protests, including a high profile march. The City's lawsuit against Budget Lodge was eventually settled out of court, with Budget Lodge agreeing to implement 20 specific crime prevention measures. Since 2008, the Budget Lodge has had a lower volume of reported crimes and, according to some neighborhood leaders, is less of a problem property for the neighborhood, although crime continues to be an issue there.[24]

C. Examples of Nuisance Abatement Best Practices

Interdisciplinary Nuisance Abatement Teams. Setting up interdisciplinary nuisance abatement teams is a key best practice for addressing crime at problem properties. Many cities across the U.S., including several Texas cities, have adopted this approach. Teams consist of personnel from different city departments who collaborate closely together and coordinate resources to ensure the team has an array of tools at their disposal to handle a problem location. The teams specialize in targeting the worst problem properties. Austin used to utilize this strategy but no longer does so. Cities utilizing these interdisciplinary teams include:

- **Dallas, Texas's** S.A.F.E. (Support Abatement Forfeiture Enforcement) Unit has personnel from the Dallas Police Department, the City Attorney's Office, and fire and code inspectors that focus on nuisance properties. There are seven police detectives (one for each police division), two fire inspectors, and two code inspectors assigned full-time to the S.A.F.E. team. The City dedicated $1.2 million to the program in FY 2012-13, not counting the fire inspectors.[25] Code officers and assistant city attorneys in Dallas's 13 neighborhood-based community prosecutor offices also collaborate closely with police on nuisance abatement cases. Over the past few years, the City has brought several nuisance abatement actions in court against property owners who have not taken the appropriate abatement actions. City staff report that the City's nuisance abatement program has a strong deterrent effect and that most property owners comply by taking the necessary abatement actions.

- **Houston, Texas's** F.A.S.T. (Forfeiture Abatement and Seizure Team) consists of representatives from the City Attorney's Office and the Houston Police Department.

- **San Antonio, Texas** utilizes DART (Dangerous Assessment Response Team) to address properties with repeated criminal activity or at least two years of uncorrected code violations. The Team is coordinated by the City Attorney's Office and includes personnel from the police, fire, and code enforcement departments. In 2010, DART initiated nuisance abatement actions against 77 nuisance properties, resulting in 71 successful abatements.[26]

- **Columbus, Ohio** utilizes "zone initiative teams," with dedicated city attorneys, police, code officials, city staff from health and sanitation, and neighborhood groups.[27]

- **San Diego, California's** DART (Drug Abatement Response Team) program targets drug houses and other properties that are the source of repeated criminal drug activity. The team includes city attorneys, code inspectors, and police.[28]

- **Arlington, Texas** likewise has an interdisciplinary NAT (Nuisance Abatement Team) working on criminal nuisance properties. The team includes police from different departments, code compliance employees, community development and planning officials, and city prosecutors. The city reports that it has a very high rate of voluntary compliance from property owners as a result of its program, that property owners generally accept and implement the NAT recommendations, and that the city sees a considerable reduction in crime and calls for services at these properties.[29]

- **In Sacramento, California**, a multi-disciplinary Nuisance Response Team started working in the 1990s along a high-crime corridor that was home to prostitution, crime-generating budget motels, drug-use and trafficking, and a host of other quality of life problems.[30] The Nuisance Response team included officials from the sheriff's department, code officials, a half-time community prosecutor from the district attorney's office, and community members, who collaborated closely to address the problem properties and physical conditions of the area. The participating governmental entities adopted a tax increment financing district that reinvested any increase in property tax revenue back into the neighborhood, and deployed a broad range of problem-oriented policing, code, and community development strategies in the area.

  A cost-benefit analysis of the Sacramento project found that it resulted overall in long-term cost savings to the City of Sacramento. The project was so successful that crime rates dropped 36 percent, prostitution was virtually

eliminated, tax revenues from local businesses increased, and code violations decreased by 85 percent. The success of the initiative led the City to start utilizing Nuisance Response Teams in other high-crime areas of the city.[31]

- **Oakland, California's** Beat Health Program targets problem properties with five teams, each consisting of a uniformed officer and police service technician and a Civilian Neighborhood Service Coordinator serving as a liaison between each Beat Health team and the community. The teams target high crime properties and attempt to work with the landlords and other stakeholders to enact crime prevention measures onsite. The officers work with the property for at least six months. A study of the program found that the targeted sites experienced statistically significant decreases in drug-related police calls at the problem properties and the surrounding areas.[32]

Proactive Approach. The **Houston Police Department (HPD)** engages in a very proactive approach towards addressing multifamily properties that are the source of repeated criminal activity. The City of Dallas operates a very similar program. Every two years, HPD runs a "crime risk threshold" formula for all multifamily complexes in the city with 10 or more units, which are listed in the City of Houston's database via its multifamily rental registration program. The formula differentiates properties based on unit count, occupancy, and other factors. For properties that meet a high rating of "part 1" and "part 2" crimes that fall within Chapter 125 as abatable nuisances, HPD sends those cases to the city's F.A.S.T. unit for investigation and action.

For properties that are still high crime but do not meet the F.A.S.T. crime threshold, HPD sends out certified letters, requires the rental property owner to meet with the police, conducts inspections of the properties via a day-time and night-time "Crime Prevention Through Environmental Design (CPTED)" inspection, and works closely with the owner to develop a remedial plan to adopt environmental features that are proven to reduce crime. The City of Houston posts a list of high crime properties on its website.[33] The property owners (or managers) are required to attend monthly community policing meetings with HPD, conduct monthly crime awareness meetings with residents, and attend an eight-hour class on strategies for lowering crime on the property.

The City of Houston has found that the program has been very effective at incentivizing landlords to make public-safety improvements and that these improvements have resulted in a big reduction in crime at the targeted properties. In 2010, landlords made more than $1.3 million in public safety-related improvements, and crime fell at all 21 apartments in the program. The total part 1 and part 2 crimes at the targeted properties fell by 39 percent in one year, with an average of 18 percent per property, improving the quality of life for tenants living in more than 4,000 apartment units.[34]

Training. A key element of nuisance abatement involves developing innovative

strategies that will effectively reduce crime. Many of these strategies end up being about the physical environment of a property and its relationship to crime, such as lighting, landscaping, surveillance, and controlling access to the premises. These strategies fall under an approach called Crime Prevention through Environment Design, or CPTED. A best practice is to train city staff, including police officers and code enforcement staff, on environmental design issues that may be facilitating crime on properties, as well as design measures that can reduce crime. Cities around the country are offering or requiring police and other city staff to participate in these CPTED trainings. The **City of Houston**, for example, currently has 100 police officers who completed a 40-hour CPTED training and also participate in a refresher classes. One HPD police officer we spoke to said the police department is moving towards eventually making the training mandatory for all cadets in the police academy.

Police officers can also benefit from training on other aspects of the relationship between crime and property management, such as how to work with landlords and tenants to address recurring problems, knowing when to bring in code officials for housing conditions, and other practices related to property management. The training goes hand-in-hand with developing closer partnerships between police, code officials, property owners, and community members, and helping all stakeholders understand the importance of multi-disciplinary collaborative approaches to addressing problem properties. Many cities, including Oakland, Milwaukee, and Albuquerque, have worked to strengthen the working relationships between code officials and police.[35] As one policy expert states:

> "Often, police have chosen not to work on a problem because they inaccurately see the issue as strictly civil in nature, while civilians avoid working on a problem because they inaccurately see the issue as strictly criminal. The message of the training program to both police officers and civilians is entirely different; it is, 'If a problem is harming the community, it is incumbent on both groups to find ways to fix it.'"[36]

City Attorney Collaboration and Enforcement. Having adequate city attorney resources to prosecute nuisance abatement actions is a critical best practice to utilizing this tool effectively. Ideally, city attorneys are involved early on in the letter writing process to property owners and engaged in hands-on problem solving with police and other city personnel to determine when it makes sense to utilize a nuisance abatement action. Additionally, to maintain its deterrent effect, the threat of a nuisance abatement lawsuit needs to be backed up with the actual filing of a lawsuit when property owners are noncompliant.

Examples:

- The **Dallas City Attorney's Office** plays a very active role in working with police and code officials on nuisance abatement actions, with four attorneys in the City's Code Compliance Section assigned to work fulltime on enforcing

problem property cases. The city attorneys work closely with the police throughout the nuisance abatement process to prepare the case for litigation in case a lawsuit has to be filed. The City's 13 community prosecutors also work on problem property cases.

- In **San Diego**, the City Attorney's Office is an integral part of the City's nuisance abatement efforts, with seven attorneys in the Code Enforcement Unit dedicated to working on problem property cases. The Unit meets monthly with code inspectors and police to review problem properties and develop long-term strategies. The Unit also trains city staff on how to identify and collect evidence on nuisance abatement cases.[37]

- Rather than wait until multiple criminal arrests have occurred on a property, **Portland, Oregon** intervenes early on when its police department starts receiving complaints about drug activity on a rental property. Through the City's Drug House Program,[38] the police department sends letters to owners and the tenants after receiving sufficient credible complaints about the property or when patrol officers suspect drug activity on the property. According to a U.S. Department of Justice report, in an average year the City of Portland sent warning letters to as many as 500 property owners and began full legal action, via the city's chronic nuisance abatement ordinance, against 15 to 20 property owners a year.[39] As a result of Portland's program, "many neighborhoods in Portland have gained relief from the impact of a local drug house before the cost in neighborhood deterioration became extreme."[40]

Eviction of Problem Tenants. Some cities impose obligation on landlords to evict tenants who commit multiple or serious crimes on their leased premises, and the city may also have the authority to evict a tenant if the landlord fails to fulfill this obligation.

Examples:

- In **Los Angeles**, a landlord must evict a tenant who has been convicted of violent or serious narcotic crimes within 1,000 feet of the unit. California law also provides that a city attorney can bring an eviction action against tenants who commit crimes on their property.[41]

- In **Dallas**, landlords must require tenants to sign a crime prevention lease addendum, which gives the landlord the authority to evict the tenant for any abatable criminal activity, including robbery, prostitution, criminal gang activity, discharge of a weapon, gambling, and sale or use of drugs.[42]

D. Local Barriers to Utilizing Nuisance Abatement Effectively in Austin

We have identified the following barriers to the City of Austin using criminal nuisance abatement as an effective tool for fighting neighborhood crime:

- **Police Department Capacity and Priorities.** The Austin Police Department (APD) dedicates insufficient resources to nuisance abatement, although just recently the Department has expanded its nuisance abatement resources. In addition, the officers cover the whole city rather than targeted geographic areas, limiting their ability to develop relationships with property owners and community stakeholders in individual neighborhoods. In contrast, Dallas has 7 police officers dedicated fulltime to nuisance abatement, one for each of its police divisions, along with 13 community prosecutors who are assigned to specific areas of the city.

- **Lack of Training.** There is a need for more training in APD and across other city departments on how nuisance abatement, including environmental design measures, can be used as a tool to help address crime at problem properties. According to APD officers, some officers are unaware that there is a Nuisance Abatement Unit or are unfamiliar with when it is appropriate to refer a case over to the Unit.

- **Reactive Process**. The City's Nuisance Abatement Unit relies on referrals from other police units or city departments. There is no process in place—such as the multifamily criminal abatement program at the City of Houston—to proactively identify properties that have reached a certain number of abatable offenses in a 12-month period.

- **City Attorney Capacity and Priorities.** The Austin City Attorney's Office is understaffed to enforce cases against problem properties. The Office does not have any attorneys who are dedicated full-time to bringing code enforcement and nuisance abatement actions. Only two affirmative prosecutors work on litigation involving code and nuisance abatement cases, and they spend a minority of their time doing so. As a result of these limited attorney resources, APD has refrained from referring nuisance abatement cases to the City Attorney's Office. On a positive note, the Office recently assigned an attorney to work full-time out of the Code Compliance Department.

Comparison of City Attorney Staffing for Nuisance Abatement and Other Problem Property Enforcement Actions

San Diego (population: 1.3 million):	7 attorneys[43]
Dallas (population: 1.2 million):	17 attorneys[44]
Austin (population: 840,000):	1.5 attorneys[45]
Columbus, Ohio (population: 810,000):	4 attorneys[46]
Seattle (population: 635,000):	5 attorneys[47]
Denver (population: 634,000):	4 attorneys[48]

- **Travis County District Attorney.** Other than Downtown Austin, the Travis

County District Attorney's Office does not formally partner with the City of Austin on nuisance abatement cases involving felony criminal activity. The District Attorney's office used to have an assistant district attorney working with APD on nuisance abatement cases, but since this person's death, the position has not been filled. Two of the city officials we talked to were concerned about the D.A. Office's lack of involvement in nuisance abatement cases.

- **Lack of Interdisciplinary Teams.** The City of Austin fails to utilize interdisciplinary nuisance abatement teams (including APD, code, fire, city attorneys and district attorneys) that work closely together on a regular, on-going basis to address crime and other issues at problem properties.

SECTION 4. PRIVATE NUISANCE ACTIONS

A. Texas Law on Private Nuisance Actions

In Texas, individuals have authority to file nuisance lawsuits against owners and managers of problem properties. A nuisance action can be brought either as a nuisance abatement action under Chapter 125 of the Texas Civil Remedies and Practices Code, discussed above in Section 5, or as a common law private nuisance action.

In a common law private nuisance action, an individual (including owners and renters) can bring a lawsuit against a nearby property owner for a condition that substantially interferes with the individual's use and enjoyment of his or her property by causing unreasonable discomfort or annoyance to a person of ordinary sensibilities.[49] The individual bringing the action, as the plaintiff, must show that: (1) the property owner's conduct is intentional, negligent, or abnormal and out of place in its surroundings; 2) the owner's conduct substantially interferes with the plaintiff's use and enjoyment of the property; and 3) and the nuisance caused the plaintiff physical or emotional harm by depriving him or her from enjoyment of the property as a result of fear, apprehension, or loss of peace of mind.[50]

To build a case for a private nuisance action, a neighbor or group of neighbors should gather the property's public records, including police, utilities, fire department, municipal court, and code compliance records, and then supplement the case with community members' testimony about the impact of the criminal activity. Oftentimes, contacting the property owner and mentioning the risk of a lawsuit will be enough to force the property owner to take appropriate actions to eliminate criminal activity on the property. A Chapter 125 nuisance abatement lawsuit can be filed in conjunction with a common law private nuisance lawsuit.

Remedies available in a nuisance action vary from case to case. Monetary damages are available in private nuisance actions, while injunctive relief is available in both private nuisance and Chapter 125 actions. With injunctive relief, a court orders the owner to take a specific set of actions that will abate the nuisance, such as ordering the owner to evict tenants committing criminal acts, hire a property manager, put in place security lighting, screen tenants for criminal records, or abate other activities occurring on the property.

Private nuisance actions are rarely brought by individuals in Austin. However, these actions can be a powerful tool for individuals or neighborhood groups to utilize when the city's enforcement of nuisance abatement laws is inadequate.

B. Example of Private Nuisance in Action: Advocates for Community Transformation

In **Dallas**, a faith-based nonprofit organization, Advocates for Community Transformation (or ACT),[51] was created to assist neighbors in West Dallas take legal action against crime-ridden properties, primarily using Chapter 125 of the Texas Civil Practice & Remedies Code and common law private nuisance actions. The organization works closely with residents to build relationships and educate them about their rights, identify neighborhood priorities, work with the problem property owners to abate the nuisances, and then take appropriate legal actions against the property owners who refuse to abate the nuisances. However, most of ACT's cases never make it to trial: after ACT notifies a property owner of a potential lawsuit or proceeds with the filing of a lawsuit, most property owners agree to abate the nuisances. Only two of ACT's cases have gone to trial in the three years ACT has existed.

ACT has recruited more than 40 attorneys from over 12 Dallas law firms (including long-established, large firms like Vinson & Elkins and Baker Botts) to assist neighbors in contacting the owners of the problem properties and, if the owner refuses to abate the nuisances, to file lawsuits against the owners. As of 2011, the organization's volunteer attorneys had contributed more than $1.5 million in pro bono services. Of the 25 nuisance properties the organization initially targeted, 16 cases have been resolved, with the owner agreeing to fix up, demolish, or sell the property. Volunteer attorneys filed lawsuits against four of the properties. One lawsuit, for example, was filed on behalf of two families against the owner of a house that was a haven for crime and had been cited 15 times by the City of Dallas for code violations. A jury concluded the house was a nuisance, interfering with the next-door neighbor's "use and enjoyment of her property." After the owner failed to repair the structure, a judge ordered its demolition.

C. Local Barriers to Utilizing Private Nuisance Actions Effectively in Austin

- **Lack of awareness of legal rights**. Most individuals are not aware that they have the right to file nuisance suits against owners of problem properties.

- **Lack of resources**. Most residents in Austin will likely not have the resources to hire a lawyer to bring a lawsuit against problem properties. There are limited, if any, existing pro bono legal resources available to local residents concerned about nuisance properties. There is a strong need in Austin for an organization like ACT, discussed above, to assist neighborhood groups in bringing private nuisance actions.

- **Fear of retaliation**. Residents may fear repercussions for filing private nuisance actions, especially when criminal activity such as drug dealing or gang activity is an issue and there is a risk or perceived risk of retaliation by the criminals. Individuals in low-income neighborhoods, especially first-

generation immigrants, may also mistrust the government and going to court.

SECTION 5. CODE ENFORCEMENT

High-crime areas are typically associated with a concentration of substandard and dangerous buildings structures. Effective building code enforcement is an important tool for not only addressing these problem properties and making them safer places to live, but also deterring rental property owners from letting their properties slip into a state of decline.

There are four critical elements of an effective code enforcement system governing the use of rental property.[52]

1. First, the system needs a process for keeping track of landlords and properties and systematically **identifying** code violations.
2. Second, there must be a process for **monitoring** violations.
3. Third, when violations occur, there must be a process for **enforcing** the code and imposing penalties when compliance does not occur.
4. Fourth, there must be a process in place for **remedying** violations to bring properties back up to code (or demolish them when appropriate). The program should provide alternative housing to the tenants when enforcement efforts fail and also recapture from the property owner the funds used to remediate the property.

A code enforcement program should also include mechanisms to pay for the regulatory costs of running the program.

One outcome for cities that do not have an effective code system is a burgeoning number of landlords who engage in the phenomenon of "milking" their properties. "Milking" means property owners who "reduc[e] maintenance and repairs of rental properties to a minimal level—just enough to keep the building operational and profitable. Over time, this results in the deterioration of the housing stock, surrounding property values, and neighborhood quality."[53] For cities with lax enforcement:

> "'[T]he owner will find milking more attractive than it otherwise would be.' Additionally, once a property owner starts milking a rental property, the cost of permanent, long-term repairs increases and the property owner has a disincentive to stop milking the property."[54]

This section provides an overview of Austin's mounting code challenges, code department structure, and code enforcement process, and then summarizes some of the key issues with Austin's current approaches to code enforcement. The section ends by listing best practices for code enforcement found in other cities.

A. Austin's Mounting Code Challenges

While all cities likely face issues of deferred maintenance and dangerous building conditions in rental properties, Austin faces a mounting series of complex challenges in this regard. At the end of 2012, Austin was the fastest growing city in the United States, its rental occupancy level was at 97.4 percent,[55] and about 50 percent of its residences were rental properties.[56] At the same time, Austin has a large stock of older multifamily properties, including at least 256 properties built prior to 1950 and at least 1,280 properties built from 1950 to 1974—43 percent of Austin's multifamily property stock.[57] Close to 62 percent of Austin's apartment units (approximately 83,000 units) are located in Class C properties.[58] Adding to this, Austin has a long-standing culture of lax code enforcement, contributing to what many neighborhood advocates in Rundberg believe is a growing stock of rental properties with substandard conditions including dangerous structural issues.

In early 2013, we conducted a drive-by of multifamily properties in the Rundberg area with Austin's Code Compliance Department (CCD) staff. We quickly saw why so many neighbors and advocates in the area are so concerned about code issues. We saw multiple buildings with substandard building issues, including visibly failing structural supports for balconies, cracked stairwell banisters, missing windowpanes on second story windows, and other dangerous code violations. Our visual assessment has been confirmed by Dr. David Kirk at the University of Texas at Austin, who completed a windshield survey of the Restore Rundberg project area in the spring of 2013. Dr. Kirk found considerable evidence of substandard living conditions, with significant variation in conditions across the project area. City code inspectors come across these substandard properties when driving through neighborhoods to respond to calls—but, because they are operating in a triage mode and overwhelmed with their current caseloads, they do not typically open up a code case for these properties until a complaint is filed.

Nearly all of the properties on the Austin Police Department's crime "hot-spot" streets in the area are rental properties, typically four-plexes constructed in the 1970s and 1980s. According to neighborhood reports, which we were able to verify on the appraisal roll for several streets in Rundberg, a small number of landlords own a large concentration of problem properties in the area.

B. Austin's Code Compliance Department

Austin's Code Compliance Department (CCD) is essentially a new department in the City of Austin.[59] Formerly housed under Solid Waste Services, the Code Compliance Department was formed in 2009 during an overhaul of the waste management programs. The Department is now headed by Carl Smart, former director of Fort Worth's Code Compliance Department, who envisions many improvements for code enforcement in Austin. With a limited operational budget of just $10.8 million and a growing population, the Department has a lot of ground to cover.

CCD has approximately 91 employees, with 60 code inspectors, including 33 inspectors assigned to the neighborhood program, which is responsible for residential building violations and property nuisance issues (dumping, illegal signs, tall weeds, etc). The neighborhood inspectors are assigned to four different zones across the city: North, South, East, and West, with 7 to 10 inspectors per zone.[60] The zones are then broken up into regions, which are overlaid with the Austin Police Department's (APD) car districts, with each code inspector responsible for about two to three APD car districts. The inspectors cover a range of code issues in their areas, including substandard buildings, tall weeds, trash accumulation, and illegal dumping. The remaining inspectors are assigned to other code enforcement tasks such as licensing, hotels/motels, short-term rentals, illegal signs, and private haulers.

The city code inspector who covers the heart of the Restore Rundberg area has anywhere between 100 to 300 cases open at any time, which is a typical caseload for a city code inspector (as another example, the inspectors covering South Austin each have around 170 open cases). Some cases are received in person from residents or businesses in the area, but most are received through 3-1-1 call complaints.

CCD is in the process of restructuring the Department into five divisions: Neighborhoods, Commercial, Multifamily, Administrative, and Training. The Neighborhood division would still house the majority of inspectors, but inspectors would be assigned based on neighborhood associations, not police districts. Because each neighborhood's issues are different, inspectors will become familiar with their assigned neighborhood and handle violations according to the specific neighborhood's needs. The Commercial Division will be a smaller group, but it will have inspectors who are trained and more familiar with commercial property violations. The Multifamily Division will have four inspectors assigned to it.

C. Current Code Enforcement Process in Austin

Austin's Code Compliance Department currently operates on a complaint-based system. Residents call the city's 311-service request line and code complaints are routed to CCD. Anonymous complaints are allowed. When a complaint is made, a case is opened and referred to a code inspector covering that region.

Code complaints generally fall into two main categories: (1) complaints from neighbors who call in about trash, graffiti, high weeds, and other conditions pertaining to the external property grounds, and (2) complaints from renters against their landlords for substandard housing conditions, such a broken air conditioning units, insect infestations, and water leaks. According to city staff, code violations pertaining to the interior of the premises are not reported as frequently as exterior violations are reported in relationship to their actual occurrence. In fiscal year 2011-12, the City of Austin received 19,669 code complaints: 8,128 pertained to building conditions, and the other 11,542 pertained to the property grounds (e.g., tall weeds, illegal dumping).

It is CCD's policy to first try and obtain voluntary compliance before turning to more active methods of enforcement. Once a case is assigned to an inspector, the inspector is expected to make a site visit within two to four days, although code staff reports that response times typically run closer to four to six days. If a code complaint relates to dangerous building conditions, the response time is quicker, while the response time for unsanitary conditions such as noxious weeds and trash can take up to 20 days in some areas.

Code Citations. The process of code enforcement varies depending on the violation. For external property violations related to issues like trash and weeds, an inspector goes out to the property to see if the complaint is valid. If it is, the inspector will send a notice of violation or written warning before issuing a citation. The property owner is given 7 days to correct the violation, and the inspector will return in 30 days to see if the violation was corrected. If the repairs are not made after another month of noncompliance, CCD will send a contracted worker out to abate the violation on the property. Code Compliance has a contractual relationship with Easter Seals of Central Austin to perform the abatement work. For vacant lots, CCD will send the bill to the property owner. For an occupied property, CCD obtains an administrative search warrant if the owner refuses to let code staff onto the property and will issue a code citation along with a bill when the contractor completes the work. If the bill is not paid, the City places a lien on the property by recording the lien in the county deed records. The liens are not foreclosed upon but accrue interest and are often collected upon the sale of the property.

Structural and other building-related violations are more complicated because CCD does not have the ability, outside of a court order, to enter the property and make repairs. After receiving a complaint, the inspector will go out to the property to see if the complaint was valid. If the inspector validates the complaint, the inspector first will typically issue a written warning in person or a notice of violation via certified mail rather than a citation. The notice of violation is similar to a written warning and does not come with any fine or other sanction. Notices of violation are properly issued in roughly half the cases where code inspectors confirm a code violation at a property. The notice of violation is supposed to be sent within five days of the inspection. However, as a result of staffing shortages, the notice of violation may not be sent for as long as three months, depending on the severity of the violation. After a written warning or notice of violation has been issued, the inspector will typically give the owner time to make the repairs and then conduct a follow-up visit to the property within 30 days to see if the violation was corrected or if adequate progress is being made towards correcting the violation. If not, the inspector may issue a citation.

If the property owner is a homeowner with personal hardship issues or other difficult circumstances (e.g., a person with a disability, fixed income, etc.), CCD will try and send the case to its Community Outreach Division, which will work with the homeowner to try and find resources to bring the property up to code.

Inspectors have a lot of discretion in deciding whether to issue a citation and will do so only when they believe it is needed to bring the property into compliance with code. For more egregious violations, such as a commercial property with illegal electrical wiring, an inspector may decide to write a citation right away. Whereas, for a property with more minor, non-life threatening violations, the inspector may write a citation only after the owner has been given more than enough time to repair the violation and it is apparent that the owner will not do so.

Citations are issued as Class C criminal misdemeanor citations, which are handled by Austin's Municipal Court. Once a citation has been issued, the responsible party can go to the Austin Municipal Court to pay or contest the fine. If the ticket is contested, a code inspector typically appears in court to present the case against the property owner. The municipal court judges are hearing many other types of cases and so may have little experience presiding over problem properties cases or may not know when repeat code violators are appearing in their court, limiting their ability to issue appropriate fines.

The Code Compliance Department currently issues only criminal citations. These citations have heightened procedural requirements and a higher burden of proof, making them more difficult to enforce if contested. It is important to note that compliance is not necessary in a citation system. All the owner has to do is pay the criminal citation; the owner does not have to actually remedy the violation. Citations are capped by state law at $500 for each general code violation, and $2,000 for each ordinance violation relating to fire safety, zoning, public health, or sanitation, or dumping of refuse, although a new citation can be issued for each day that a violation goes unresolved.[61]

CCD is currently in the process of adopting an administrative hearing process for code violations, authorized by Section 54.004 of the Local Government Code. Inspectors will be able to write civil citations as well as criminal citations. Civil citations, which are utilized by many other Texas cities, have a lower burden of proof and will allow for a more efficient code enforcement process, while also allowing for the assessment of fines.

Although many apartment owners and managers will address a code violation once a citation has been written, one of the major issues that CCD's inspectors confront with the use of citations is that they are often insufficient to bring the most delinquent problem property owners into compliance, particularly large, profitable multifamily residences, according to CCD staff. For this group of property owners, it may be cheaper for the owners to pay the citation fines than make the repairs to the property.

CCD staff report they have a huge backlog of open cases, with some cases that have been open for as long as four to five years from the initial complaint. Dangerous building cases are amongst the cases that have been open for several years without final resolution.

Building and Standards Commission. For properties that continue to be in violation of code without adequate remedial action by the property owner, the Code Compliance Department may choose to send the case to the Building and Standards Commission (BSC). Writing a code citation is not a prerequisite for sending the case to the BSC—both can be done simultaneously, especially for the most egregious and life threatening violations.

The BSC is a quasi-judicial body that gets its power from Section 54.033 of the Local Government Code. Austin's BSC is comprised of seven appointed commissioners and meets approximately once a month to hear and determine cases. At each BSC meeting, the panel hears an average of three cases. Most recently, the Wood Ridge Apartments case (discussed below) was on the docket at every BSC meeting from June 2012 to April 2013, occasionally being the only case heard. Code Compliance staff told us that a lot of cases that should go to the BSC do not end up there because of limited staff resources.

The BSC has the authority to: (1) order the repair of buildings; (2) declare a building substandard; (3) order the immediate removal of persons or property found on private property and order action to remedy, alleviate, or remove any substandard building; (4) order or direct any peace officer to enforce and carry out the lawful orders or directives; and (5) determine the amount and duration of civil penalties.[62] The property owner has the right to appeal a BSC order in district court.

Because the BSC is a quasi-judicial body, it does not have the authority to actually enforce any of its repair orders, although Texas cities have authority to obtain a judgment lien against the property for the civil penalties. Under the Texas Local Government Code, all that is required for a city to obtain a judgment lien is to file a certified copy of the BSC order with the district court clerk.[63]

The BSC has the authority to order that a property be demolished or to revoke its certificate of occupancy, but in recent times Austin has not utilized this latter tool when the property is still occupied, for fear of displacing tenants. Occupied residences are generally not ordered for demolition except in extreme cases. When the BSC issues a demolition order, the property owner has the right to a de novo appeal in district court.[64]

City Attorney's Office—Chapter 54 Civil Lawsuits. An important code enforcement tool for dealing with life threatening building conditions is the Chapter 54 civil action. A Chapter 54 civil action is filed under Chapter 54.012 by the city attorney's office in state district court or county court, where it will get a preferential setting on the court docket if the property conditions would "unreasonably endanger persons or property."[65] A Chapter 54 action may be filed for the enforcement of ordinances in a number of areas, including, in summary: (1) the preservation of public safety of a building or structure; (2) the preservation of public health or the fire safety of a building or structure; (3); criteria for land

subdivision or building construction; (4) dangerously damaged or deteriorated structures; and (5) refuse, vegetation, or other matter concerning insects and rodents.[66]

Chapter 54 lawsuits can be utilized to obtain injunctive relief and civil penalties. Notice to property owners prior to filing a Chapter 54 lawsuit is not required to obtain injunctive relief but is required to collect civil penalties. In order to collect civil penalties, the city must prove that the defendant was actually notified of the provisions of the ordinance violated and continued to violate the ordinance.[67] The letter of notice (and expense of hiring an attorney and going to court) is often sufficient to compel a delinquent property owner to come into compliance with code. To obtain an injunction, a city must prove substantial danger of injury or adverse health impact to a person or property (other than the defendant or the property owned by the defendant).[68]

Chapter 54 lawsuits are a more powerful tool than criminal misdemeanor citations or sending a case before the Building and Standards Commission. A district court judge can order the responsible party to make repairs and pay civil penalties or allow a city to make repairs and bill the property owner. When the owner violates the court order, the court can hold the property owner in contempt for noncompliance and require imprisonment or additional fines.

Austin's Code Compliance Department estimates that it has sent only two to three cases to the City Attorney's Office for Chapter 54 litigation in the past eight years. The Department staff told us that they would be open to sending over more of these suits if the City Attorney's Office were willing to file such suits. On the other hand, the City Attorney's Office currently has limited capacity to file Chapter 54 civil lawsuits. As discussed above in the section on Nuisance Abatement, the City Attorney's litigation department has only two attorneys who work on affirmative litigation, and these attorneys spend the bulk of their time of defensive matters and other affirmative cases, with little time available for code enforcement actions. However, one former assistant city attorney has been assigned recently to work within the Code Compliance Department to assist with legal matters.

Collection of Fines. When fines for code violations remain unpaid, cities have some authority to file liens against the property and then collect on the liens. There are several different Texas laws governing liens for code violations. Chapters 54 and 214 of the Texas Local Government Code are the more relevant state law provisions. A city has the authority to record liens against a property when an owner does not pay certain types of costs, fees, and penalties associated with code enforcement, such as the city's cost of mowing the premises, repairing or demolishing a structure, or unpaid court judgments. A city then has the ability to foreclose on these liens, although there are exceptions for homestead properties. The process for obtaining a lien is pretty straightforward. For BSC-issued fines, for example, the municipal clerk must file with the district court a certified copy of the BSC's order, and the district court then issues a judgment lien.

In Austin, the Municipal Court is responsible for collecting outstanding code citation fines and follows a process established by the State Office of Court Administration for doing so. The process involves a series of calls and notices, and, if the fine continues to go unpaid, it is referred to a collections agency. The Court can also choose to include the code citation collections in its special collections program, which includes an annual Warrant Roundup. The City does not use its authority under state law to place liens on properties with unpaid code citation fines. The Code Compliance Department does not keep track of data concerning owners who fail to pay their code citation fines.

For fines issued by the Buildings and Standards Commission, it is within the Code Compliance Department's discretion as to whether to refer outstanding BSC fines to the City Attorney's Office for collection. If a collections case is referred to the City Attorney's Office, the attorneys send a demand letter and then may choose to file a separate lawsuit in district court to validate the BSC order and issue a judgment order. After the judgment order is issued, the property owner is given another chance to pay. If the owner still fails to pay, the City Attorney's Office may choose to file an abstract of judgment in the property deed records. The Code Compliance Department does not have the capacity to run a tracking report showing outstanding BSC fines.

D. Wood Ridge Apartments: A Case Study

In May 2012, a second-story walkway collapsed at the Wood Ridge Apartments located in the Riverside neighborhood, in a complex that was 98 percent occupied. The Austin Fire Department was called out and had to evacuate more than 23 families late at night. The displaced tenants were left with $200 Red Cross gift cards to arrange for alternative accommodations. After inspecting the buildings, the CCD inspectors found that all 15 of the complex's second-story walkways were substandard and that the walkways in 5 buildings were in imminent danger of collapsing, resulting in the closure of dozens of additional apartment units. Overall, more than 150 tenants were displaced.[69]

The Department brought the case to an emergency meeting of the Building and Standards Commission within a couple of weeks. On June 4, 2012, faced with a room full of displaced tenants, the BSC ordered the out-of-state owner of Wood Ridge Apartments to complete repairs within 75 days. Repairs began but were not completed within the deadline. In August 2012, the BSC began to levy civil penalties of $1,000 per building a week, or $15,000 total, until repairs were made. Repairs were not started up again until March 2013, 10 months after the BSC issued its orders and 7 months after civil penalties began to accrue. As of March 27, 2013, Wood Ridge owed a total of $465,000 in civil penalties.

The owner proceeded to put the property up for sale and asked the BSC to waive the fines, thereby presumably increasing the amount the owner would receive in the

sale. In April 2013, the BSC voted to waive approximately $273,000 of the fines if the new owner brought the property into compliance with code within 180 days after closing on the sale.[70] While Wood Ridge has been a source of affordable housing to many low-income families, the sale and renovation of the property is likely to result in increased rental rates.

Before the walkway collapsed in May, Austin's Code Compliance Department had visited the complex 33 times in the prior 28 months (2010 through April 2012) in response to tenant complaints, **but no citations were ever issued against the complex**. The tenant complaints did not relate to structural or other dangerous building issues, but instead to interior issues such as broken air conditioning, insect infestations, and water leaks. Because none of the complaints pertained to the walkways, the walkways were never inspected until one of them collapsed. When the units were finally inspected thoroughly after the walkway collapsed, the code inspectors found 760 code violations in 84 units. The Austin American-Statesman reported this year that Wood Ridge had been through similar, if not worse, issues before back in the 1990s, including issues with dangerous balconies and the owners' failure to repair the complex despite accumulating more than 30 code citations.[71]

E. Key Issues with Austin's Current Approaches to Code Enforcement

As discussed earlier, there are four critical elements of an effective code enforcement system: a city must have good systems in place to identify, monitor, enforce, and then remediate code violations.[72] We conclude that Austin does not have adequate systems in place for any of these elements. Overall, the main challenges facing the City of Austin are: (1) the City's reliance on a complaint-based, reactive system rather than a proactive system that identifies, monitors, and targets the most egregious code violations; (2) the lack of an adequate enforcement system to take more aggressive measures against landlords who fail to fix dangerous building conditions; and (3) the lack of programs in place to remediate code violations when landlords fail to take action.

Complaint-Based Reactive System. Austin's code enforcement strategy is primarily complaint-driven, leading to a reactive, sporadic approach to code enforcement, rather than a proactive and strategic response that targets the most serious code violators across the city. Inspectors are assigned to geographic areas they patrol, but rely almost unilaterally on citizen complaints for their caseloads.

When a citizen complaint is filed, the code case that is opened and the follow-up inspection pertain solely to the code issue underlying the complaint, rather than a proactive identification and enforcement of other violations that may exist on the property. The case is then closed as soon as the reported problem is fixed. The Wood Ridge Apartments case study above highlights the deficiencies with this approach.

Unless something catastrophic happens, like a walkway or balcony collapsing, Austin does not have a system in place to identify and closely monitor the worst violators at a property level[73] or a landlord level, for those landlords who are in the business of renting out multiple substandard properties. Austin's inspectors routinely drive by properties with major external code violations but feel like they do not have the time to add these unreported properties to their caseloads. Austin code inspectors reported to us their frustration with the current system.

As discussed further in the next section on Rental Property Registration and in Appendix 2, a complaint-based system does not give the Code Compliance Department the tools it needs to proactively find and target the most serious code violations. Studies have shown that complaint-based systems capture only a fraction of code violations in a community.[74] A complaint-based system relies on residents to report their neighbors, their landlords, or themselves. Code Compliance Department staff suggested to us that many code violations go unreported because residents do not understand what constitutes a code violation or do not know they can report code violations to the City.

Moreover, Rundberg in particular is a very diverse neighborhood with a high concentration of renters who are immigrants, undocumented residents, people with criminal records, and people with bad credit who may be afraid to report code violations for fear of being retaliated against by their landlords and losing their homes or being deported, even with the current anonymous reporting system. Research reveals that in disadvantaged communities with a high incidence of aggressive police activity and intervention, residents grow weary of not only the police but government institutions in general, and therefore become less inclined to request government services through 311 calls.[75]

The City's ability to enact a more proactive code enforcement process is hampered by the lack of a property registration ordinance allowing for regular inspections and by the lack of adequate funding and staff resources. As mentioned above, Austin's code inspectors have very large caseloads on their dockets. The City of Austin's 60 code inspectors (.73 FTE for every 10,000 persons) and 33 code inspectors in the neighborhood program do not have the capacity to proactively identify and target the worst violators. The Code Compliance Department's estimated operational budget for 2012-13 is $10.8 million, with $6.1 million dedicated to neighborhood and multi-tenant-related code issues. In contrast, the Austin Police Department has a budget of $301 million.[76]

Austin's code resources also stand in stark contrast to the City of Dallas. Dallas's Code Department has 200 code officers assigned to neighborhood code issues (code compliance, nuisance abatement and multi-tenant) (1.7 FTE for every 10,000 persons) and an annual budget of $28.4 million, with $21 million dedicated to neighborhood-related code issues.[77]

Comparison of Dallas's and Austin's Resources for Neighborhood-Related Code Issues

	# of Code Officers for Neighborhood-Related Code Issues	Budget for Neighborhood-Related Code Issues	Total Operational Budget
Dallas	200 (1.7 FTE per 10,000 residents)	$21 million ($18/resident)	$28.4 million
Austin	33 (.39 FTE per 10,000 residents)	$6.1 million ($7/resident)	$10.8 million

Despite the Austin Code Compliance Department's limited resources, the Department actually brings in surplus revenue that could be targeted towards stronger code enforcement. In the Department's estimated budget for the current fiscal year, the City will have a surplus of $183,000 and ending balance of close to $1 million.

Lack of Enforcement. As city staff report, for decades the City of Austin has had a laissez-faire approach to code enforcement, leading to many of the present-day problems with substandard apartment conditions in Austin. From October 2007 through June 6, 2013, the City opened 3,154 cases with confirmed code violations at multifamily complexes but issued citations in only 5% of the cases. During the same time period, for repeat code offenders (multifamily complexes with 2 or more confirmed code violation cases within 365 days), the City opened approximately 2,270 code violation cases but took legal action (via a citation or other means) in less than 120 of the cases.[78] In 2012, there were 11 multifamily properties in the City's system with 10 or more code violation cases, but the City took legal action against only 2 of the properties. For example, at the Oak Hollow apartments, the City opened 42 confirmed code violation cases in 2012 but did not take a single legal action against the property.

City of Austin's Use of Citations and BSC Actions Against Properties with Multiple Confirmed Code Violations in 2012

# of Code Violation Cases	Number of Multifamily Properties	Number of Properties with Code Citations or BSC Actions
2-3	106	7
4-9	35	4
10+	11	2

In terms of total code citations—not just those dealing with repeat violations at multifamily properties—from fiscal years 2007-08 through 2011-12, **the City of**

Austin issued 1,835 total code citations, at an average of 367 citations a year, including 153 code citations against multifamily complexes.[79] These totals are not limited to property conditions, as they include a large number of work without permit cases.

As a point of comparison, the City of Dallas issued approximately 5,500 civil code citations in 2012 alone. In 2007, soon after Dallas switched over to an administrative system, the code citation rate was approximately 24,000 citations a year. According to City of Dallas code personnel, the number has "gone down dramatically from 2007 in part because we are doing a better job of obtaining voluntary compliance."[80]

Under Austin's compliance-oriented system, which relies heavily on warnings versus citations, it is easy for property owners with repeat code violations to evade penalties by demonstrating the violation is "fixed," which starts the process over again. All of this contributes to the phenomenon of "milking" properties, a simple economic calculation whereby Austin rental property owners find "milking more attractive than it otherwise would be . . . reducing maintenance and repairs of rental properties to a minimal level—just enough to keep the building operational and profitable.[81]

One of the main barriers keeping Austin from having a more effective enforcement process is the lack of resources dedicated to code enforcement at the City Attorney's Office. As discussed earlier, with only two attorneys assigned part-time to file affirmative litigation cases, the Austin City Attorney's Office does not have the infrastructure in place to prosecute problem property cases and bring the worst code violators into compliance. As a result, the City is failing to use one of the most powerful tools it has at its disposal to incentivize the most recalcitrant code violators to bring their properties more quickly up to code: Chapter 54 civil actions.

The Wood Ridge case study discussed above is a prime example of the weaknesses in the City's current enforcement system. Even though tenants had made dozens of code complaints against the property and inspectors visited the property more than 33 times in the 28-month period leading up to the walkway collapse, **no citations were ever issued against the property prior to the collapse.** The Code Compliance Department only issued warnings or notices of violation to the owner, under CCD's compliance-oriented system. Since the problems had been fixed or were in the process of being fixed at the time of re-inspection, no citations were ever issued and the owner ended up never having to pay any fines for the violations, despite the confirmation of multiple code violations and the city resources expended in responding to the complaints. When the City did finally start to assess fines—after the collapse of the walkway—the owner still failed to repair the dangerous building conditions for a year and then sold the property. Ultimately, the City agreed to cut the fines almost in half.

Lack of Programs to Remediate Violations. A third area of concern is the City's complete lack of a program to remediate substandard building conditions when enforcement actions fail, although this is an aspect of code enforcement that cities across the United States struggle with when it comes to occupied multifamily properties. The City of Austin has a robust program for remediating weed and trash violations, but no program in place to repair buildings or—as a last resort for the worst and most dangerous properties—to place the buildings in the hands of a receiver to bring them up to code. As pointed out above, if Austin had a system in place to effectively collect fines, those fines could be used to help fund remediation of code violations. Under state law, a receiver can also place a priority lien on the property to collect the repair costs.

Technology Limits. The City's current technology has a number of limits that impede effective enforcement. For one, the technology does not allow the City to automatically flag repeat offenders and thus target the most dangerous buildings for enforcement actions. The City has also been unable to produce reports that identify the most problematic landlords in the system—those who own the most properties with repeat code violations. For neighbors and tenants who have reported code violations, trying to track the status of those reports can be very frustrating. The City of Austin does not employ any type of online system that gives the public access to tracking code complaints.

Tenant Displacement. Enforcement actions against problem properties heighten the risks of tenants being displaced without resources to relocate to a safe and healthy home. Austin does not have any tools for addressing tenant displacement from code enforcement actions, although city staff is currently working on a displacement ordinance to present to the City Council. An effective code enforcement system needs to be coupled with tools to assist tenants with relocating to safe homes.

F. Best Practices

The following are some examples of innovative approaches that cities have adopted to strengthen the effectiveness of their code enforcement policies. Best practices that relate to code enforcement are also discussed in the section above on Nuisance Abatement and the following section on Rental Registration.

Targeting the Worst Offenders. A critical component of effective code enforcement is to dedicate teams of experts to target the worst offenders. A subset of rental properties generate repeated, on-going code issues, and a subset of property owners specialize in operating a good portion of these substandard properties.[82] For example, a study in the City of Memphis of properties with serious code violations found that over 40 percent of absentee landlords owned at least 5 or more of these substandard properties, and over 25 percent owned at least 20.[83] These substandard properties are also often the most difficult to address and

require extra, dedicated resources. The following are some examples of cities using this targeting approach:

- In **Providence, Rhode Island**, a task force of different agency officials meets about twice a month to target 20 problem properties nominated by community members, police officers, and other stakeholders.[84]
- **Toledo, Ohio** has utilized a "Dirty Dozen" program that targets the 12 properties presenting the most immediate health and safety risks. Several City departments work closely together to bring the properties back into compliance with code.[85] The location of each property and the names of the owners are provided to the news media and posted on the City's website.
- **Louisville, Kentucky** has a Neighborhood Roundtable that identifies the ten worst properties in each area. City inspectors conduct intensified inspections and generate a before and after report on each property.[86]

Community Prosecutors. One of our favorite best practices for addressing problem properties is the utilization of interdisciplinary community prosecution teams that focus on code compliance, criminal nuisance issues, and other neighborhood quality of life issues utilizing community-focused strategies. Community prosecutors are city attorneys who work directly out of a targeted geographic area, building long-term relationships with the residents, business owners, and law enforcement. Code inspectors are often part of the community prosecution team. The prosecutors serve as complex problem solvers for the neighborhood, utilizing a broad range of legal strategies and other approaches to addressing problems. As a community problem solver, the community prosecutor can often remedy criminal and property issues without litigation such as having payphones removed and getting streetlights installed in an area where drug dealing occurs.

Community prosecution incorporates both reactive and proactive strategies aimed at addressing neighborhood problems at their root cause. Dozens of communities around the country utilize a community prosecutor model, which has been lauded in an array of forums including Police Chief magazine[87] and the National District Attorneys Association.[88]

- **The City of Dallas** has a very successful and robust community prosecutor program. The City's 13 community prosecutors are paired with 10 code inspectors and have a mission of working closely with the community to identify problems, address their root causes, and provide solutions in a manner that best fits the community. One of their primary areas of focus is on substandard properties and properties that are havens for criminal activity (which also often have code issues), and they work closely with the police and code departments on abating the nuisance activity. The community prosecutors also coordinate closely with other city departments, such as fire and health. Dallas's community prosecutor program began in 2001 with a federal Community Prosecution Planning Grant but now receives

general revenue funding. The City of Dallas community prosecutors are currently working to build a stronger partnership relationship with the Dallas County District Attorney's office and that office's community prosecutor program to coordinate community prosecution efforts. Four of the City's community prosecutors are spending eight weeks training in the District Attorney's Office.

- **Seattle** also has a robust community prosecutor program, which the City created in 1995. The program involves long-term proactive partnerships between the prosecutor's office, police, public and private organizations, and the community with the goals of: (1) reducing crime and enhancing the quality of life in Seattle neighborhoods; (2) developing a more efficient and effective response to public safety problems; and (3) improving communication among residents, city attorneys, police, and other city departments involved in problem solving efforts.[89]

- **Austin** currently has a small-scale community prosecutor program, with one community prosecutor from the Travis County District Attorney's office working in Downtown Austin to reduce crime and abate nuisances. The program is funded by Travis County and City of Austin with support of a $10,000 grant from the Downtown Austin Alliance. In the late 1990s until 2003, the Travis County District Attorney's Office also used to have a community prosecutor program outside of downtown in the Cameron neighborhood, funded by a federal Weed and Seed program grant. The community prosecutor worked with police officers, business owners, and residents to address crime in the area; set up trainings for hotel and motel managers and convenience store owners to learn how to mitigate criminal activities on their property; and served as a liaison between residents and city agencies.

Chapter 54 Civil Lawsuits. As discussed above, Chapter 54 civil lawsuits under the Texas Local Government Code are a powerful tool to enforce code compliance in Texas. A judge has authority to hold property owners in contempt of court if they violate court orders, which can result in harsh sanctions, including imprisonment and high fines.

- In **Dallas**, experienced code inspectors know how to identify properties that likely necessitate a Chapter 54 lawsuit and work closely with the City Attorney's office to prepare the case for a lawsuit. Usually the threat of a lawsuit is enough to gain compliance, so that only approximately three cases a year on average are actually filed in court.

Rental Registration. Many cities across Texas and the United States have adopted rental registration ordinances as a proactive approach to identifying code issues and

incentivizing property owners to keep their properties up to code. Rental registration is discussed in the following section of this Report.

Collaboration and Coordination with other City Departments. A keystone of a good code enforcement program is one that is coordinated with other city departments and agencies that are regularly in the field, including the police department, city attorney's office, social services, fire department, utility companies, and public works departments.[90] There should be regular communication across city departments. Personnel in city and county departments should be cross-trained to report problems. For example, if a bailiff evicting a tenant sees a property in disrepair, the bailiff can be trained and required to report this to the city code enforcement department. Several examples of collaborative models are also discussed in the Nuisance Abatement section of this Report.

- **Dallas** assigns code compliance inspectors to work closely with city attorneys. Ten code inspectors are assigned to the Code Compliance Section of the City Attorney's office and the Community Prosecutor Section to work on challenging cases together. These inspectors are experienced with civil litigation, know what structural, plumbing, and electrical deficiencies to look for, and are essentially trained to testify as witnesses in court. As discussed above in Section 3, code inspectors are also assigned to work with police on the City's nuisance abatement teams.

- **Little Rock, Arkansas** utilizes Neighborhood Alert Centers throughout the city, where teams of police, code enforcement staff, and other city staff work on neighborhood quality of life issues by working closely with residents and other stakeholders in the community.[91] The Centers also utilize neighborhood facilitators—city employees who work with the community on prioritizing and coordinating city responses to neighborhood quality of life issues.[92]

Administrative Enforcement. In 2005, substantial revisions were made to the **Dallas** City Code to implement a comprehensive administrative process for handling civil code violations. The system was modeled after successful systems in cities such as Detroit, Chicago, and Seattle. Prior to that time, Dallas only had the option of writing criminal citations, which were prosecuted in municipal court. The heavy backlog led to cases taking one to two years to come to resolution. The heightened procedural requirements and burdens of proof in a criminal proceeding also created difficulties. For example, the defendant had to be identified by an eyewitness in every case. Cases could be easily dismissed if the code inspector who wrote the citation was unable to appear at the hearing to identify the defendant property owner.

Now, the vast majority of Dallas's common code violations are issued civil citations and prosecuted in an administrative proceeding called the "Hearing Officers Court."

For example, litter, weed, structural deficiency, and multi-tenant registration violations can all be issued civil citations. Civil prosecution eases the burdens of proof, and the administrative forum allows for quicker movement of violations through the system.

About 500 civil code citations are processed through Dallas's administrative system each month. Per city ordinance, the hearing date cannot be earlier than 31 days after a citation is issued. Cases take 31 to 40 days on average to come to the hearing officer's court. Most cases in the administrative process are resolved at the hearing because the citation creates a rebuttable presumption of violation, which means the owner must prove otherwise or the City automatically wins its case. Dallas asks for a finding of "liable" and for the full penalty to be assessed. The hearing officer then enters a finding of "liable" or "not liable," and also has the discretion to reduce the fine amount from the maximum available penalties. The property owner has a right to file an appeal within 30 days in the municipal court.

Dedicated Housing Courts. The consolidation of all property-related cases into dedicated housing courts has been adopted in several cities. A specialized court allows matters such as code enforcement to be a priority, rather than falling to the bottom of the judicial docket, and allows for the judge to develop expertise in overseeing code cases and identifying egregious code violators.[93]

The **Cleveland** Housing Court[94] is a national model for housing courts. The court has exclusive jurisdiction over code enforcement cases and also hears landlord-tenant cases, foreclosures, nuisance abatement, and receivership actions. Code enforcement advocates, who are usually affiliated with neighborhood organizations, track complaints and violation notices and assist the City in properly documenting code enforcement cases. The advocates meet with the court once a quarter to share ideas. The court also employs housing specialists to provide counseling and assistance to landlords to help them achieve compliance. The court has criminal enforcement powers, starting with minor misdemeanor fines of $150 a day, up to $5,000 a day. The court also has broad equitable powers so that the court can issue orders such as requiring the owner to go and live in the house. In 2007, the court had a budget of $3 million that included $2.2 million in salaries for a 45-person staff including one judge, a magistrate, and bailiffs. The court runs a housing clinic and code enforcement workshops and conducts a wide variety of other community outreach projects. The court also sometimes holds community courts in the actual neighborhood where the property is located.

Public Shaming. In an attempt to incentivize landlords to eliminate noxious conditions, some cities engage in publicly shaming landlords whose properties are a blight to the community. For example, Syracuse, New York places a large sign on the front of properties with serious code violations, listing the landlord's name and contact information. Waco, Texas publishes a monthly report on its website listing all structures that have been issued green or red tags, where green tagged structures refer to properties that are uninhabitable but repairable, and red tagged

structures are deemed uninhabitable and beyond repair.[95] Reporting egregious code violators to the news media can also serve as an effective tool to persuade property owners to eliminate substandard building conditions. The North Austin Civic Association has used positive reinforcement to thank property owners who fix their code violations.

Property Information System. A property information system that provides current and comprehensive information about properties is a critical part of any effective code enforcement program. Cities need this data to target enforcement resources against the worst violators and in the neighborhoods and streets in need of the most attention. The system should be accessible via the Internet and allow the city and residents in the community to easily track and monitor the code enforcement process.[96] The system should also provide the community with the tools to assess the impact of the code enforcement. A well-run system will "inform planning, intervention, and research" around problem properties.[97] The property information system should be searchable by a range of criteria, including the type of property; the name of the owner and property manager; the number of complaints, warnings, and citations; the types of violations (with coding for more dangerous conditions); length of time in the system; and the current compliance status. The system should also be GIS compatible to allow for mapping of the data. The database should interface with other databases such as those maintained by the taxing districts, municipal court, and police department.[98]

Examples:

- **Philadelphia**'s Neighborhood Information System is accessible to city staff, community development corporations, and other community-based agencies that have contracts with the city.[99] Certain parts of the system are also available to the public at large. The system was created in partnership with the University of Pennsylvania and tracks a wide array of information related to properties, including the date of purchase, purchase price, tax delinquency status, city code violations, and utility terminations. The system has been particularly valuable in neighborhood planning for activities such as housing rehabilitation.[100]

Tenant Displacement. Many cities across the country have adopted policies to assist tenants who are displaced by code enforcement actions. Here are two examples of policies:

- **California**: Under California law, any tenant who is displaced as a result of an order to vacate relating to immediate health and safety issues is entitled to receive relocation benefits from the owner along with the return of the security deposit. The benefits are equal to the sum of two months of the HUD-established fair market rent for the area, in addition to covering utility service deposits.[101] In **Oakland**, if the owner refuses to make the payment, the City may choose to make the payment and then place a lien on the property.[102]

- **Irving, Texas**: Irving provides relocation assistance to tenants when a building is evacuated for serious code violations. The assistance is financed with the dues collected through the rental registration ordinance and code fines.

- **Cincinnati, Ohio**: The City provides up to $650 to tenants (the amount depends on family size) who are displaced as a result of code enforcement vacate orders, to assist with rent or a new security deposit and moving expenses.[103]

SECTION 6. RENTAL PROPERTY REGISTRATION

Rental Property Registration is an essential tool for creating a code enforcement system that effectively identifies problem properties and, through random inspections, deters landlords from engaging in deferred maintenance and lax property management. A strongly-enforced rental registration program "lets the owner understand that he is known to the municipality and accountable for his actions with respect to the property."[104]

Joining cities across the country, at least 20 Texas cities have adopted rental registration ordinances including Houston, Dallas, Fort Worth, and Arlington. Large U.S. cities outside of Texas with rental registration programs include Seattle, Sacramento, Philadelphia, Boston, Los Angeles, and Minneapolis.

This section discusses the benefits of rental registration programs, provides some historical background on Austin and rental property registration, and discusses a range of policy options for a rental registration ordinance in Austin.

A. The Benefits of Rental Registration Programs

Rental registration programs give city code inspectors the authority to inspect the exterior and interior spaces of rental units on a rotating basis, while creating a working database of rental properties in the city. The database gives cities the much-needed ability to identify, track, and then prioritize the most dangerous problem properties and the most problematic landlords for appropriate action. Rental registration programs also provide cities with information on how to contact owners or property managers when there is an emergency, code issues, or other problems with a rental property.

Without a mechanism in place to proactively conduct inspections and identify the most dangerous properties, code enforcement officers must rely on a complaint-driven inspection process—a strategy that, as discussed below, has proven to be ineffective in Austin and other cities. This is especially the case in communities with large low-income, immigrant populations, since these tenants are more likely to avoid reporting code violations for fear of retaliation.[105] Tenants in Texas face a heightened burden in proving retaliation since landlords do not have to have good cause when they chose to not renew a lease. The Austin Tenants Council reports it is extremely difficult to establish retaliation in lease non-renewal cases. With rental occupancy rates hovering at 98 percent in Austin, landlord retaliation can quickly drive a low-income tenant into homelessness. Austin's anonymous reporting system does not help a tenant who needs to report violations in the interior of the unit.

Rental registration programs give cities a tool to identify code problems and intervene earlier on in the process, before a property deteriorates to the point that it becomes cost prohibitive to repair.[106] A study of North Carolina cities with

mandatory, proactive rental registration ordinances also found that the ordinances resulted in landlords bringing their properties into code compliance more rapidly, a decrease in residential fires, and a reduction in code complaints.[107] For example, Greensboro's housing code complaints fell 61 percent from a high of 1,427 at the implementation of the city's rental registration program in 2005 to 871 complaints in 2007.[108]

When tenants do end up filing a code complaint in Austin about a building condition, it may then be too late—the property has already fallen into such a state of disrepair that the property is too dangerous for the tenants to remain. Rental registration programs allow cities to identify code problems early on when the problems first arise. Cities can then work with property owners to correct unsafe living conditions before they grow to the level that they become cost prohibitive for the landlord to repair and before they put the tenants' lives in jeopardy.

Another benefit of rental registration programs is that they identify the full scope of a city's substandard rental housing problems. Having this inventory allows city officials to develop appropriate citywide policy responses. These responses include carrot and stick approaches to bring properties into compliance with code requirements coupled with tools aimed at also preserving affordable housing opportunities. Rental registration, coupled with a licensing requirement, also gives city officials an additional tool to incentivize landlords to keep their units safe and code compliant. In especially egregious cases involving repeat and severe violations, a city can bar a landlord from operating a property until the landlord addresses the dangerous conditions.

Finally, through a minor fee assessed against each rental unit at the property (typical annual fees adopted by cities range from $10 to $25 a unit), rental registration programs are typically self-funding. This means a city does not have to draw from limited general revenue funds to cover the costs of registering and inspecting the rental units. At the same time, with fees of less than $.83 to $2.08 a month per unit, the financial impact of rental registration fees on owners and tenants is typically very minimal.

B. Austin's Rental Registration Background

Austin is one of the fastest growing cities in the country and the 11th largest city in the United States. The city has approximately 3,400 multifamily properties (3 or more units) based on information obtained from the Travis County Appraisal District, American Community Survey, and Austin Energy. The city's rental occupancy rates are currently around 98 percent, in a city where 57 percent of all residential units are rentals.[109] In FY 2011-12, city code officials logged 1,148 notices of code violations at multifamily residential properties.

As discussed above, Austin has historically relied on a complaint-driven, passive approach to code enforcement at rental properties. In 2002, the Austin American-

Statesman criticized this approach as "Austin's way of duct taping a persistent problem."[110] Poor renters have shouldered the risks of this policy, "often endur[ing] unsafe and unsanitary conditions rather than report a slumlord and risk retaliatory eviction."[111]

Unsafe living conditions at Austin rental properties have received considerable attention in the press over the past two years, with a number of high profile cases involving tenant deaths or displacement. In addition to the Wood Ridge Apartments case, discussed above:

- In 2001, two men died at a rental property as a result of a faulty heater at a duplex that had been illegally converted into 15 rental units. A code inspection after the deaths found that the rental units did not have any smoke alarms and that the unit conditions were dangerous.[112]

- In October 2012, a balcony at Las Palmas apartments started to collapse, resulting in the dislocation of 60 tenants. A tenant first noticed cracks in the floors and windows outside his unit and reported the problem to management. Management refused to take action, resulting in the tenant and manager arguing and a call to the police. The police officers observed the cracks and called the code compliance and fire departments.

Austin has never had a rental property registration program for long-term rentals, although the City Council initiated efforts to adopt one a few years ago. In 2009, Council members Bill Spelman, Laura Morrison, and Sheryl Cole proposed a resolution asking the city manager to work with stakeholders to develop a rental registration ordinance requiring the registration of multifamily rental properties, as well as triggers to identify conditions when registration for single-family and duplex rental properties would be required. The resolution stated that:

> "[T]he program should feature initial and periodic inspections to confirm a property's compliance with applicable standards including critical health, safety, maintenance, zoning, building and fire codes. The program should establish provisions for addressing noncompliant residential rental properties in ways intended to promote compliance and protect public health and safety."[113]

The apartment industry opposed the efforts to adopt a rental registration ordinance, and, due to lack of consensus, an ordinance was never presented to the City Council for a vote.

In June 2013, the City Council approved two resolutions to set up rental registration programs. The first one (the "Tovo resolution" sponsored by Councilmember Kathie Tovo with co-sponsor Councilmember Mike Martinez) directed the City Manager to develop a one-year pilot registration program for all residential rental properties in a group of Central Austin neighborhoods, the Rundberg area, and the East Riverside/Oltorf area.[114] The second resolution (the "Spelman resolution"

sponsored by Councilmember Bill Spelman, with co-sponsor Mayor Pro Tem Sheryl Cole) directed the City Manager to:

> . . . initiate a code amendment to create a repeat offenders program so that after the second health and safety code citation within one year at a given rental property, the property will be required to register with the city, and will be subject to appropriate fees for registration that shall cover the cost of the program, as well as any inspections that the Director of Code Compliance deems necessary to ensure compliance with health and safety codes.[115]

The main on-going barrier to implementing a comprehensive rental property registration ordinance is opposition from the real estate community. The Austin Board of Realtors®, for example, is mobilizing en masse to oppose the City's current efforts at adopting registration ordinances. Their official position opposing rental registration is on their website, recommending "that the City of Austin, through its stakeholder process, develop a program that will empower the Code Enforcement Department and not require it to be self-sustaining. Code Enforcement is a basic essential service that can receive funding through the property tax and collection fees from code violators. The City of Austin should reward conscientious and responsible property owners and punish code violators."[116]

Even though Austin has never had a registration and inspection program for long-term rentals, in 2012 the Austin City Council adopted an ordinance requiring the registration of short-term rentals for one- and two-family dwelling units, targeting the increasingly popular vacation rental market in Austin.[117] Austin's Short-Term Rental Licensing Program requires a $235 annual licensing fee. The program does not require an inspection if the unit has already received a certificate of occupancy.

C. Key Elements of Rental Registration Programs

The following are some of the key elements that need to be considered when creating a new rental registration program. To identify these elements, we examined a wide variety of rental registration programs, with a focus on those adopted in the 10 largest Texas cities (Houston, Dallas, Fort Worth, Arlington, and Plano) and several major U.S. cities. Appendix 3 contains a chart comparing the programs we examined in 12 total cities; several of the smaller Texas cities we examined are not included in the chart.

1. Triggers for Requiring Registration and Inspection

There are four general categories of rental registration programs that cities have utilized, with varying triggers for when registration and an inspection are required:

- <u>Registration and inspection of all properties, regardless of whether the property has a history of code citations</u>: Inspections are on all properties but

not necessarily all units (for example, in a large multifamily property, only a few units may be inspected), and in some cities just the exterior of the property is inspected. In this latter group of cities, the interior is not inspected unless code violations are identified on the exterior.

- Registration of all properties, with inspections of a percentage of properties, regardless of whether the property has a history of code citations.

- Registration of all properties, with inspections of only properties with a history of code citations.

- Registration and inspection of properties only with a history of code citations.

Most of the registration programs in the U.S. that we identified require mandatory registration and inspections of all rental properties or a subset of the properties, regardless of whether the properties have a history of code violations. Some cities, such as **Fort Worth** and **Dallas**, have adopted a bifurcated approach, treating multifamily and single-family/duplex properties differently. In Fort Worth, all multifamily properties must register, but single-family and duplex properties must register only if there are prior code violations at the property. In Dallas, all rental properties must register, but only multifamily properties are subject to regular inspections. Single-family and duplex properties are inspected only if there are code complaints.

The Austin City Council is pursuing both a proactive and reactive approach in its two June 2013 resolutions. The Tovo resolution sets up a geographically-targeted pilot registration and inspection program for all rental properties. The Spelman resolution requires the registration and inspection of only properties that have received two or more code citations in the past year. (Under the Spelman resolution, the Woodridge property discussed earlier in the report would not have triggered an inspection prior to the walkway collapse, since the property had not had any code citations issued against it in the past two years).

Several studies have shown that this latter approach of focusing only on properties with a history of code citations—which is similar to the way Austin's current code enforcement system operates—is ineffective.[118] A reactive approach fails to identify many properties with serious code violations, especially those in communities with more vulnerable tenants such as low-income, first-generation immigrants who are often afraid of reporting violations. In a survey conducted by the Montgomery County (Maryland) Tenants Work Group, for example, 20 percent of tenants reported they feared retaliation for reporting code violations or other problems with their rental units.[119]

In Austin, one out of five apartment units are occupied by foreign-born households. The most recent immigrant arrivals have the highest risk out of all tenants of living

in substandard rental buildings.[120] A focus group by Travis County confirmed that many recent immigrants here locally have landlords who do not address safety hazards or public health concerns. Reports of abusive landlord practices were common, including landlords ignoring tenants' request for repairs or threatening them deportation.[121]

Tenants' fears of retaliatory evictions are based in reality, despite the legal protections tenants have from being retaliated against for reporting code violations. Legal aid and tenant advocates locally report that retaliatory evictions are not uncommon in Austin, even with the current rights tenants have under City of Austin policy to make complaints anonymously. News articles from around the country over the past few years also "demonstrate that retaliatory eviction is an issue that courts continue to encounter across the country."[122]

Tenants often lack the information to identify many types of code issues, such as structural issues, and when it is appropriate to make a complaint (see Appendix 4, which includes pictures of several types of structural issues at Austin multifamily complexes that tenants are unlikely to ever report). As a result, for those tenants who do report code issues, the code reports have a greater emphasis on environmental and vehicle violations rather than structural issues, such as deteriorating structural support for porches or stairwells, which can go easily undetected without a professional inspection.[123] A tragic example of this occurred in Houston in 2008 when two children died from suffocation when a brick stairwell collapsed on them. The city's code officials had not inspected the property for structural problems since 1996.[124] Multifamily units are also much less likely compared to single-family properties to come to the attention of code enforcement,[125] probably due in the part to the fact that multifamily premises are not as visible from the street and thus surrounding neighbors.

2. Types of Properties that Must be Registered

City rental registration programs vary widely in the types of rental properties that are covered by the registration and inspection requirements. Factors to consider include:

- the number of units in a property (e.g., single-family, duplex, multifamily);
- whether to include alternative types of rental housing (e.g., RV parks, extended-stay hotels and boarding rooms);
- whether to exempt affordable units already subject to separate government oversight and inspections, such as Section 8 properties;
- whether to exempt owner-occupied properties (e.g., a duplex with the owner living in one of the units); and
- whether to exempt newer properties.

Some cities initially targeted a smaller subset of properties but then expanded their programs over the years to cover a broader range of properties. For example,

Dallas's rental registration program initially targeted just multifamily apartments of three or more units when it was adopted in 2004, but in 2010 the city adopted a separate registration program to cover non-owner occupied rental properties of less than three units. Most programs appear to exempt owner-occupied properties, at least for single-family homes and duplexes, and many exempt government-subsidized housing that is already subject to inspections. For example, **Plano** exempts units that receive Section 8 subsidies from the registration requirement, since these units are already inspected by the local housing authority.

Some cities limit registration requirements to buildings over a certain age, allowing newer buildings to remain exempt for a certain number of years. For example, **Fort Worth** and **Plano** exempt buildings less than five years old from their registration and inspection requirements (Plano originally covered buildings older than 10 years but extended the program in 2008 to cover buildings 5 to 10 years old).

One challenge that cities face when they include single-family properties in their registration system is identifying these properties and getting them into the system. Unlike multifamily rental properties, which are fairly easy to identify using appraisal district records, it is hard to identify when a single-family property is being used as rental housing. The **City of Dallas** reports that it has struggled with this issue and has talked to other cities facing similar struggles. As a lesson learned, Dallas staff recommended that Austin develop upfront a system for identifying single-family rental properties, such as coordinating with the water utility department to collect this data. The **City of Seattle** is working through these issues now as it sets up its comprehensive rental registration program, and has budgeted significant funds for conducting landlord outreach.

3. Registration and Inspection Implementation

Because of the daunting task that larger cities face upfront in bringing thousands of rental properties into a new registration and inspection program, many cities have implemented their registration ordinances in phases. **Seattle** is rolling out its brand new rental property registration in three phases: properties with 10 or more units must register by July 2014; properties with 5 to 9 units must register by the end of 2014; and properties with 1 to 4 units must register by the end of 2016. The City is also rolling out its inspections in phases. In Texas, **Hurst** and **Richardson** divided their cities into different zones and have placed each zone on a different timetable, requiring initial registration and renewal to be staggered among the zones. The **City of Irving** ordinance staggers license renewal dates based upon the type of residence (e.g., multifamily, single-family, RV, manufactured home.)

4. Renewals

Another consideration for cities adopting rental registration ordinances is to determine when a property registration must be renewed. Registration renewal follows one of several models, including: (1) annual or other calendar-based

schedule; (2) at a change in tenancy; or (3) at a change in ownership. The vast majority of the cities we examined with rental registration programs require annual registration. The most notable example of a city without annual registration is **Seattle**, which is adopting a five-year registration cycle. **Brooklyn Center, Minnesota** provides for longer registration terms (three years) for properties that have minimal code violations and police service calls, and shorter registration terms (six months to a year) for properties with high levels of code violations and police service calls.[126]

5. Type of Information Gathered in Registration

Cities' rental registration applications vary in the type of information they require. The applications always require, at a minimum, the number of units and the property owner's name, phone number, and address. The applications may also require the number of bedrooms, number of allowed occupants, and number of actual occupants. Registration applications also typically require the name and contact information for the property manager and, for properties owned by a business entity, the name and contact information for the entity's registered agent for purposes of serving lawsuits. It is important to also require contact information for both the owner and property manager, especially an emergency contact who is available 24 hours a day. This provides code, police, and neighbors with someone to contact if there are emergencies or other issues on the property. **Dallas** requires the name of the insurance provider and all lien holders, as well as an alternate contact for the property. **Richardson, Texas** requires rental property owners to provide a working email address and regularly uses email alerts to communicate with owners. **Irving** requires the owner to provide information on the person responsible for paying the utility bills.

In most cities we examined, the owner is typically responsible for acting promptly to update contact information or changes to the registration records. If the property owner resides outside the city or outside the state, a city may also require the property owner to list contact information of a local contact person or property manager who has the authority to represent the owner at any legal proceedings arising under the ordinance.

The information collected should facilitate the ability of cities to identify landlords who own multiple problem properties, keeping in mind that owners often set up a unique holding company to own each property. Thus, tracking information about the holding company's owners, founders, and addresses can be very useful. Another best practice is for the registration application materials to list key city legal requirements for landlords and require the landlord to acknowledge awareness of the requirements.[127]

6. Crime Prevention

Several cities include a crime prevention component in their registration programs, either as a requirement or incentive. Many of these programs are modeled on the Crime Free Rental Housing Program,[128] a national program that is utilized by police departments across the country to give landlords the tools they need to help prevent illegal activity on rental property. There are three core elements of the program:

- A training for property owners and managers that includes education on warning signs of drug activity, preparing the property, applicant screening, and community building. The Department of Justice has put together an extensive guidebook on how to set up a training program, which has a community-oriented focus.[129]
- An inspection (Crime Prevention Through Environmental Design/CPTED) by police of criminal safety features on the property including exterior lighting; door, window, and lock standards; and landscaping.
- A crime-free commitment by landlords, including a commitment to regularly inspect the property units, maintain security measures on the property, have tenants sign a crime-free lease addendum, and work with police and other agencies.

Examples:

- **Houston and Dallas** have both adopted variations of this program through their respective Blue Star and Gold Star programs, which are voluntary. To achieve the star status, the property must pass a security inspection by police and host a crime watch meeting with residents, amongst other requirements. Property owners can list the star status in their promotional materials, and the City's website has a listing of all properties with star status. Dallas and Houston also have mandatory programs requiring inspections and remedial action plans at high-crime properties; Houston's mandatory program, which is discussed in the Nuisance Abatement section, has resulted in significant decreases in crime at multifamily rental properties.

- **Fort Worth** has a similar program, but it is mandatory for all multifamily properties of eight or more units. Each on-site manager and leasing agent must attend an eight-hour training course on crime-free housing. All properties are also inspected by the police department via a Crime Prevention through Environmental Design assessment. Fort Worth also requires landlords to comply with several crime prevention measures on their properties, including requirements for specific exterior lighting, securing of vacant units, and graffiti abatement.

- **Portland, Oregon** conducted its first landlord-training program in November 1989 with 94 landlords participating. Between 1989 and 1995, more than 7,000 landlords and property managers (representing over

100,000 rental units) attended the training program.[130] The program has developed into a national model refined through extensive research with landlords, police, tenants, and other stakeholders, with support from the U.S. Department of Justice.

- **Milwaukee, Wisconsin** has worked with local lenders to require landlords to attend the City's rental housing training program as a condition of receiving a loan to purchase rental property.

- As part of its multi-tenant registration program**, Dallas** requires multifamily rental property owners or managers to attend an annual "Safe Complex Symposium" as well as three crime watch meetings in the neighborhood each a year. The symposium is run by the police department and educates property owners on ways to improve tenant safety. Attendance at the symposium is mandatory. If a property owner fails to attend, he or she is assessed a $600 fine. The only property owners who are exempt from the symposium are those who have achieved "Gold Star" property status.

- Both **Dallas** and **Fort Worth** require landlords to utilize a crime-free lease addendum unless one has been already incorporated into the lease using the Texas Apartment Association form.

7. Code Enforcement Education

Education about code enforcement should be provided to both landlords and tenants. Most property owners hold rental property as investments. Managing and maintaining rental properties may not be an owner's primary concern, and, therefore, the owner may not actually know what is required to keep their properties up to code and what the consequences are for violating the code. On the other hand, tenants often are un-empowered because they do not know what standard of living they are entitled to and what their rights are to enforce city building codes. Educating both parties will help maintain a system of code compliance.

One way to disseminate education materials is for the registration process to include a packet of information for landlords detailing what is needed to pass an inspection, the maintenance process, and penalties associated with failing to comply with code. Similarly, landlords could be required to give tenants a packet of information at move-in or upon the signing of a lease, which explains the tenants' rights as renters and the process for reporting violations. **Fort Worth**, for example, requires landlords to provide tenants with the Fort Worth Rental Handbook. The handbook provides information on grounds for eviction, a tenant's rights to challenge eviction notices, information on how to make a code complaint, and contact information for agencies who can assist with defending evictions.

A standard requirement in rental registration ordinances is to require the property owner to display the registration documents within the residence or apartment common area. In **Fort Worth**, landlords must post the registration certification on the property. Fort Worth also requires landlords to post and maintain clearly visible signs on the property containing emergency contact information for the property management and information on how to report code violations.[131]

8. Inspection Requirements

There are several key policy issues relating to inspections in a rental registration program: (1) how often inspections will be conducted; (2) what part of the property will be inspected (exterior versus interior of units; what % of units); (3) what inspection standards the rental units must meet; (4) how inspections are scheduled; and (5) what kind of personnel will be conducting the inspections.

- **Inspection Schedules**: There are several patterns cities follow in their inspection schedules. One pattern is to require an initial inspection upon registration, then require subsequent inspections either at changes in tenancy, if the property failed the initial inspection, or in response to tenant complaints. A second pattern is to require inspections only in response to tenant complaints (the limits of this approach are discussed above under "Triggers for Requiring Rental Registration"). A third pattern is to require regular, periodic inspections, on an annual, bi-annual, or less frequent basis, regardless of change in tenancy and complaints. Most cities we examined follow this latter model. **Fort Worth**, for example, requires an inspection of every multifamily property every two years, **Dallas** every three years, and **Houston** every five years. The frequency of inspections depends in large part on the number of properties subject to inspection, the scope of the inspection, and the capacity of the city staff dedicated to conducting the inspections.

  Yet another model of inspections is to require more frequent inspections of properties that failed the initial inspection. **Brooklyn Center, Minnesota**, places each rental property in one of four different tiers depending on the number of code violations. Type 1 properties are inspected only once every three years, while Type 4 properties are inspected as often as every six months.[132]

- **Scope of Inspections**: Cities vary on whether they inspect the interior of the units, although most of the cities we studied inspect the interiors of at least a portion of the units. **Houston** inspects only the exterior. One option is to conduct an initial exterior inspection and then conduct an interior inspection only if the inspector suspects issues, the tenant requests an inspection, or the exterior fails inspection. **Dallas** inspects the exterior and only approximately 10 percent of the interior units per complex. By no means should inspections

be invasive to the tenants; the inspectors should be allowed only to inspect for structural, electrical, and other major building code violations, using a standardized checklist.

- **Inspection Standards**: The standards that rental units must meet to pass inspection vary in different cities. The inspection standards may relate to just structural integrity or cover a range of issues including fire safety, general maintenance, and plumbing.

- **Scheduling Inspections**: Cities also differ in terms of how inspections are scheduled. **Frisco**, Texas, gives written advance notice of when an inspection will occur. In contrast, some cities, such as **Irving**, do not give written notice of inspections. Cities typically have a "reasonableness" requirement concerning times when inspections may occur. Cities vary on whether someone, such as the tenant, must be present at the unit in order for the inspection to occur.

- **Personnel**: Cities differ in terms of what types of inspectors visit the property. Most cities we reviewed use city staff, but one option is to allow property owners to hire outside inspectors, or for the city to retain outside inspectors. As a result of state constitutional mandates, **Seattle** is giving property owners in its new rental registration program the choice to use city inspectors or hire outside inspectors. Allowing property owners to hire outside inspectors could create more opportunities for abuse as a result of there being less accountability. **Sacramento** allows for a self-inspection by the property owner for properties that first pass an initial inspection; ten percent of these properties are then randomly inspected by the City to ensure compliance. Cities also differ in the number of inspectors who visit the unit and their qualifications. Most cities appear to utilize just one inspector. **Houston** uses two inspectors: one who is qualified to inspect for structural issues, and a second inspector who is qualified to inspect for electrical issues.

9. Fees and Costs of Running a Registration Program

In adopting a fee structure for a rental registration program, there are a number of factors for a city to consider. First, a city needs to decide whether it wants the registration and inspection of properties to be self-sustaining through the fee structure, or whether the city is willing to supplement the program with general revenue or other funding sources. Under Texas law, the fees charged must be reasonably related to the cost of running the registration and inspection program. This means that, before setting a fee, Austin first needs to do an analysis of the anticipated scope of the program and what it will cost to run.

The costs of running a rental registration and inspection program will depend largely on how many properties are subject to inspections, how often inspections are required, the scope of the inspections, the number of units subject to inspection at each property, and the extent of re-inspections for properties that fail the initial inspection. Ideally, enforcement costs will be covered separately from the registration and inspection costs, out of fines assessed against property owners who violate the program requirements. Most cities charge an additional fee for re-inspections when a property fails the initial inspection.

Typically, inspection costs for multifamily properties, when broken down on a per unit basis, are cheaper than inspection costs for single-family properties, since only a portion of the units at multifamily properties are inspected. For example, if a property inspection costs $200, the cost is $200 per unit in a single-family property, and $25 per unit in an eight-plex. As a result, in cities that inspect both multifamily and single-family properties, the registration and inspection fees for multifamily rental properties generally end up subsidizing part of the costs of registering and inspecting the single-family properties.

In Austin City Council discussions on the viability of implementing a successful registration program, some council members expressed concerns that the program would be cost prohibitive and lead to a bloated bureaucracy. Councilmember Bill Spelman presented a chart at the June 6, 2013, City Council meeting showing that the City of Austin would need to hire 153 inspectors at a cost of $13 million a year to inspect Austin's approximate 3,400 multifamily properties (3+ units).

In our evaluation of other successful programs, we found these estimates to be extremely inaccurate. The basis for Councilmember Spelman's estimate is that every unit in a multifamily property would be inspected every year, thus yielding an estimate of nearly 200,000 inspections per year. As we have noted, it is a common practice in rental registration programs to inspect only a small portion of the units at multifamily properties and to conduct inspections less frequently than once a year. Thus, the actual number of annual inspections would be far fewer than 200,000. Using very conservative estimates, we conclude that six inspectors would be more than sufficient to run a comprehensive multifamily inspection program in Austin—one modeled on other successful programs around the country. The inspectors would cost less than $600,000 a year, including equipment costs.[133] There would be additional costs to operate the registration and enforcement components. An annual registration fee of $10 per multifamily rental unit in Austin would generate close to $1.3 million a year.

In approximating what it would cost to run a citywide rental registration with inspections for all rental properties in Austin, including single-family and duplex properties, the City of Seattle is a good guide. Seattle is the midst of setting up its new comprehensive rental registration and inspection program, which will cover all rental properties in the City. City staff, working with a financial consulting firm, has prepared an extensive budget analysis for the program. In contrast to the Houston

multifamily model, discussed below, the Seattle model highlights how much more expensive it is to include single-family properties and duplexes in a registration and inspection program. These higher costs are due to the high volume of single-family and duplex properties along with the costs of tracking down these properties, getting them into the registration system, and then inspecting them.

The City of Seattle estimates it has 147,000 renter-occupied units and 61,580 rental properties. While 44 percent of Seattle's rental units are in properties of fewer than five units, 93 percent of all rental properties in Seattle (57,485 properties) have less than five units, with 4,095 multifamily properties (5+ units). In comparison, Austin has approximately 180,000 renter-occupied units (18 percent more than Seattle), 41,500 single-family and duplex rental properties, and 3,400 multifamily rental properties (3+ units).[134] We suspect that Seattle has more total rental properties than Austin due to a larger reliance on single-family rentals in Seattle (which is likely driven in part by Seattle's higher median home sales prices of $468,000), in addition to Austin's high volume (approximately 581) of large apartment complexes with 100 or more units.

Comparison of Seattle's and Austin's Multifamily and Non-Multifamily Rental Stock[135]

	Number of occupied rental units	Number of multifamily rental properties	Number of multifamily rental units	Number of non-multifamily properties	Number of non-multifamily rental units	Total # of all rental properties
Seattle[136]	147,000	4,095 properties (5+ units)	86,367 units (5+ units)	57,485 properties (1-4 units)	67,070 units (1-4 units)	61,580 properties
Austin	180,000[137]	3,400 properties (3+ units)[138]	134,000 units (3+ units)	41,500 properties (1-2 units)	50,000 units (1-2 units)	44,700 properties

The City of **Seattle** has budgeted $1.6 million a year for the registration aspects of its program, which includes an extensive audit program, $1 million for landlord outreach, and an IT project manager position. To cover all of its costs, the City anticipates needing to set the 5-year registration fee at $150 (average of $30/year) as a base fee for each property, with an additional $4 per unit ($.80/year).[139] This does not cover the cost of inspection. Seattle's program operation costs are higher than several peer cities because of the inclusion of single-family properties.

If Austin were to target just multifamily properties (3,400 properties), the costs of a rental registration program would be reduced significantly. As a comparison, the **City of Houston** has 4 code inspectors who are inspecting all of Houston's 5,000 multifamily properties over the course of five years. Two inspectors (electrical and structural) conduct a comprehensive inspection of the exterior premises. Overall, Houston is conducting an average of 6 inspections a day, 4 days a week, at a rate of

100 a month and 1,200 a year. The 4 inspectors are also conducting regularly scheduled follow-up visits and inspections of properties that failed the initial inspection. The City has an additional 4 inspectors who respond to 311 calls for code complaints at multifamily complexes. The City budgets $1.2 million annually to run the entire multifamily program, which includes the costs of 10 inspectors, 4 support staff, and the program director.

The City of Dallas's multi-tenant code inspection section has a budget outlay of $2.3 million in expenses and brings in $2.8 million in revenue.[140] The section includes the multi-tenant registration program but is also responsible for responding to all code-related calls concerning multifamily properties and enforcement actions pertaining to multifamily properties.

A 2008 study of North Carolina cities found that the total cost for each rental property inspection ranges from $51 to $75 per property per inspector (based on an annual inspector salary of $32,500 to $43,000).[141] Houston is paying its inspectors approximately $45,000 in 2013. From interviews with housing inspection supervisors, the North Carolina study found that one full-time housing inspector can complete 6 inspections a day, and approximately 1,400 inspections a year. Assuming a very conservative rate of inspections for Austin where one inspector completes just one multifamily property inspection a day (working 4 days a week for 48 weeks), 6 inspectors could complete around 1,200 inspections a year. Under this model, inspecting all 3,400 of Austin's multifamily properties (3+ units) would take approximately 3 years at an annual per inspector cost of roughly $100,000 with benefits and cost of equipment, or a total of $600,000 for the inspectors.[142]

Comparison of Austin's and Houston's Inspection Costs for Operating a Multifamily Registration and Inspection Program

City	Number of mf properties inspected	Number of code inspectors	Time needed to complete inspections	Approximate cost of inspectors
Austin	3,400 multifamily properties (3+ units)	6	3 years (~1,200 property inspections a year)[143]	$600,000 (includes benefits and inspectors' work equipment; does not include support staff)
Houston's Multifamily Registration Program	5,000 (3+ units)	6 (4 inspectors working in teams of 2 and 2 senior inspectors)	4-5 years (~1,200 a year)	$1.1 m (includes salaries and benefits for 6 inspectors, 4 support staff, and program director)

The cities we examined range broadly in the way they assess fees for registration and inspections. Appendix 3 lists their fees. The following are other factors to consider when developing a fee structure:

- **Whether to charge a registration fee and in what amount**. All but one of the cities we studied (Houston) charge a registration fee. **Houston** charges a per unit fee only when the inspection is conducted; city staff report that the inspection fees collected ($140,000/year) are insufficient to run the program, which relies largely on fees from the City's Building Permit Fund. Houston also requires a $400 fee for high-crime properties to participate in the City's Apartment Crime Enforcement Program, which includes a separate inspection component by police.

  Dallas charges an annual registration fee for its multi-tenant program. For the City's non-owner occupied rental program (single-family and duplexes), Dallas waives the fee after the first year unless the property fails the inspection. The registration fees for cities charging by the unit range from a low of $10 per unit in Dallas for its multi-tenant program (with **Arlington**, Texas, in second place at $13.50 per unit) to $43.32 a unit in **Los Angeles**. Some cities charge higher registration fees for properties with a history of violations. **Fort Worth** charges a registration fee of $200 a unit in its single-family and duplex program, but only for units with a history of code complaints (the single-family registration program is mandatory only for units with a history of code violations).

- **Whether to charge a separate fee for inspections**. Most of the cities we studied do not charge an extra fee for the initial inspection. **Boston** charges an annual registration fee of $15 per unit ($25 for the first unit), and then a separate inspection fee of $50 to $75 per unit. While **Houston** does not charge a registration fee, it does charge a fee of $10 a unit for multifamily property inspections (while the fee is for all the units, Houston only inspects a portion of the units at each property). Most of the cities we studied charge an additional re-inspection fee for units that fail the initial inspection. Arlington, for example, charges a $150 re-inspection fee. Plano's fee increases with each re-inspection.

- **Whether to differentiate the fees assessed based on the number of units at the property**. Most cities we studied charge a per unit fee for registration and inspections. Raleigh charges a fee of $15 to $50 per property. Some cities charge a higher fee for single-family or duplex units, while other cities charge a lower per unit fee for smaller properties. **Boston**, for example, charges an inspection fee of $50 per unit for 1- to 3-unit properties, and $75 per unit for properties with 4 or more units—but the fee is applied only to the units actually inspected.

- **Whether to charge a higher fee for the first unit and then a lower fee for any additional units on the property**. **Minneapolis** charges a $69 fee for the first unit and then $19 for each additional unit.

- **Whether to set a cap on the total fee for larger multifamily complexes**. **Boston** sets a cap of $2,500 per building and $5,000 per property for its inspection fee.

10. Incentives for Proper Property Maintenance

Several cities offer incentive programs for property owners to maintain their property. As discussed earlier, the **Dallas** Police Department has adopted its Gold Star Certification Program, and Houston has a similar Blue Star Certification Program. Property owners who complete a special class and pass an annual environmental design inspection can receive a special certification from the city, which can then be used in advertising to prospective tenants.

Some cities allow properties that pass the initial inspection to go through future inspections less frequently. **Lewisville**, Texas, allows units that have no complaints reported and pass inspection for two consecutive years to schedule inspections once every five years. In **Dallas**, the renewal registration fee is waived for properties in the Non-Owner Occupied Rental Program that have no code violations. In Dallas's Multi-Tenant Registration Program, the inspection is free unless the property fails an inspection, then the inspection fee is $30 a unit and $50 a unit for a re-inspection.

Other potential landlord incentives include: (1) free advertising on city websites or local newspapers; (2) free or subsidized access to safety equipment such as smoke detectors, carbon monoxide-detectors, security locks, and closed-circuit cameras; (3) reduced fees for building permits to make repairs; (4) free training courses; (5) technical assistance for addressing property management issues; (6) free security inspections; and (7) loans or grants for property improvements.

11. Sanctions

Cities must also consider what type of fees and penalties to impose on properties that register late, fail to register, and fail an inspection. Ideally, a program would impose a fee for registering late and then a larger fine for failure to register, to incentivize landlord participation. A fee avoids the court process. Some cities tie their program requirements to a license or certificate of occupancy: If a property is not in compliance with the registration requirements or fails to come in compliance with code, the certificate of occupancy can be revoked and the property cannot be leased. **Minneapolis, Minnesota** has an "unlicensed property finder" on staff who seeks out unlicensed rental properties; the fine for failing to register is $250.[144]

Many cities apply very high penalties for failure to register, for letting registration lapse, and for providing false information. **Richardson, Texas** charges $2,000 for each of these offenses. **Fort Worth** charges a fee of up to $2,000 a day. **Dallas** charges a fine of $200 to $2000 for single-family and duplex properties that fail to register, while multifamily properties must pay $20 a unit. In some other cities,

failure to register increases the cost of registration according to how late the registration is submitted. **Mesquite, Texas**, charges a $100 registration fee for each unit that is occupied prior to passing an inspection. In Mesquite, the fine and all city liens must be paid before the city will issue proper registration documents, which are in the form of an occupancy permit.

For properties with high levels of code violations that fail inspection, a best practice is to require the properties to submit a mitigation plan to the city, outlining how the owner plans to fix the violations. **Brooklyn Center, Minnesota** follows this approach.[145]

In **Fort Worth**, if a property fails an inspection, new tenants cannot move into the property until all violations are rectified. Also in Fort Worth, a complex that is sold will not receive a new certificate of occupancy and tenants will not be allowed to move in unless the complex passes inspection. In **Irving**, city officials may order evacuation of a building with serious violations. **Dallas** revokes a certificate of registration if the property registrant failed to comply with the rental registration ordinance, other city ordinances, or any other state or federal law applying to the operation of a multifamily property. The registrant first receives a warning and then has 10 days to comply before the certificate is revoked.[146]

A standard practice of Texas cities is to count each day a property is in violation of code as a separate offense for purposes of determining the fine. The cost of code fines ranges from $10 to $2000 per offense. Cities typically base the fine on the type of violation and charge more for violations relating to fire safety and health risks. **Dallas** requires a minimum mandatory fine for violations—the fine cannot be reduced—and also provides for the escalation of penalties for repeat code violations.

As part of ensuring that a property is registered, some cities tie municipal utility services to the presentation of valid rental registration documents. If a property is not registered, it cannot receive utility services. For example, in **Mesquite**, for units that pass inspections, the city leaves a green inspection tag, which must be presented to the utility department in order to have water service connected. **Lewisville** and **Sugar Land** also link utility services to meeting registration requirements.

SECTION 7. ADDITIONAL TOOLS

There are a number of additional tools that should be considered as part of Austin's toolbox for addressing problem properties.

A. Problem-Oriented Policing and Community Engagement

Problem-oriented policing with the active engagement of the community should be a central part of any strategy to reduce chronic crime in a neighborhood over the long-term. Problem-oriented policing is proactive and seeks to eliminate the causes of particular crimes at properties with high volumes of crime, rather than just continually arresting people on the property, which does little or nothing over the long-term to reduce crime at that location. Each problem property presents its own unique challenges and solutions. There is no one size fits all solution.

Due to the complexity and persistence of chronic crime in areas like Rundberg, community engagement is vital to the success of problem-oriented policing and long-term sustainable change. Effective community engagement involves cultivating close relationships with community members (including harder-to-reach populations such as tenants and immigrant households), regular interactions and communications, and working together collaboratively on addressing the sources of crime in a community. Residents and business owners in a community are the best sources for identifying the community's most pressing concerns related to crime and are a key asset for developing innovative solutions.

To effectively engage the community, regular neighborhood meetings with police officers assigned to work in the neighborhood are important. These meetings allow officers to share their knowledge about crime and crime reduction strategies, residents and business owners can share their knowledge about the criminal activity, and together the attendees can work collaboratively to develop a crime-reduction strategy that addresses the unique issues of each high crime area.

One model of a city that has embraced this approach is **Chicago**. Chicago's Alternative Policing Strategy (CAPS) utilizes a five-step problem-solving model and monthly "beat community meetings" where residents in small geographic areas exchange information about neighborhood conditions driving crime and engage in joint problem solving with the police to develop strategies to address those conditions.[147] There are 25 districts and 281 police beats in the city. In addition to the beat meetings, each police district has a district advisory committee composed of stakeholders from across the district who play a lead role in identifying community-based strategies to address underlying conditions contributing to crime. In 2013, the CAPS program is being revamped to become more decentralized and to provide each police district will a community organizer to assist with community outreach and engagement.

Criminal nuisance abatement teams, discussed above in Section 3, are examples of how dozens of cities around the country have been utilizing problem-oriented policing to reduce crime in neighborhoods. The community prosecutor model, discussed above in Section 5.E., and Houston's and Dallas's apartment crime enforcement programs, discussed in Section 3.C., are additional examples of community-based, problem-oriented approaches to addressing crime in a community.

As discussed further in Section 3.C., it is critical to provide training for police and other city staff on problem-oriented approaches. In Houston, 100 police officers have completed a 40-hour training on combating crime through environmental design strategies, and the City is moving towards making the training mandatory for all cadets in the police academy. One former Austin police officer we spoke to told us that many police officers in Austin do not know enough about code enforcement and the relationship between building conditions and crime. Officers are starting to be trained on this in the police academy but for only two hours.

Many of the city staff and community members we interviewed for this report told us that Austin does a poor job when it comes to problem-oriented policing and that the Austin Police Department needs to focus its efforts more in his area. This form of policing was more common in the 1980s and 1990s under prior department leadership but is no longer emphasized, and there is currently a cultural bias in the police force against this form of policing. Two former veteran police officers reported to us that even just using the term "community policing" (a variant of problem-oriented policing) will produce an immediate negative reaction from patrol officers on the street—that the term is very loaded and relates to a long-standing cultural distrust within APD between patrol officers and administrators.

B. Landlord Compacts

Landlord compacts are groups of rental property owners and managers in a neighborhood who meet regularly and work closely with police to prevent criminal activity from occurring in their apartment communities. **Milwaukee**, **Los Angeles**, **Tucson**, and **Portland** have all used variations of this approach.[148]

C. Budget Motels

In Austin and in other cities, poorly-managed budget motels often serve as havens for crime, including drug dealing and prostitution. In the Rundberg area, these high crime motels are concentrated along the IH-35 corridor, with the criminal activity then spilling over into the surrounding neighborhoods. These motels also provide an important source of affordable housing for individuals and families who cannot obtain a lease for a variety of reasons (e.g., lack of credit, felony records, lack of funds for an apartment deposit), and for homeless individuals seeking temporary shelter.

Research has established that increased police enforcement does little to lower crime at motels over the long-term.[149] Instead, research has established that one of the most effective and cost efficient ways to address crime at motels is by requiring motels to adopt sound management practices and environmental design features.[150] Many cities have adopted this problem-oriented policing approach at motels. Model policies include:

- **Chula Vista, California**: With the engagement of the community and after trying several other approaches, the City of Chula Vista, outside of San Diego, adopted an award-winning program requiring motels to apply for and obtain an annual permit. The permit is conditioned on meeting certain standards, including the following:
  - The rooms must contain basic crime prevention devices (deadbolts, chains, window locks);
  - Payment of hotel taxes and no debts to the City;
  - No outstanding city code violations;
  - The rooms must be in sanitary condition; and
  - The motel must maintain a low number of citizen calls for service (CFS) (the level was not set in the ordinance but the city adopted an internal policy of .61 CFS per room per year—the median rate in the city).[151]

  The fine for failing to obtain and display a permit is up to $1,000 and/or six months in jail. Rather than prescribe by ordinance the specific crime-prevention measures that motels have to take, the city recognized the unique circumstances of each motel and allows the owners to decide which measures to adopt. The City provides motel owners with a list of management practices and environmental features that have been proven to lower crime at motels.

  The Chula Vista motel project has been considered a huge success, leading it to receive the Bright Ideas award from Harvard Kennedy School of Government. During the pilot period, crimes at motels fell by 70%, the calls to police dropped by 49%, and the appearance of the motels greatly improved. One problem motel was converted into a LEED-certified affordable housing development and another was sold to become part of the Comfort Inn & Suites franchise. The number of motel rooms that did not meet basic safety standards declined from 378 to 0, and all rooms passed health inspections. Meanwhile, the positive economic impacts of the ordinance included an increase in hotel occupancy tax receipts and less police time responding to calls for service at motels, which resulted in savings of approximately $73,000 a year.[152]

- In **Tukwila, Washington**, all motels are placed in one of three tiers based on the motel's average CFS rate. Motels in the lowest tier do not have to change anything, while motels in the middle tier must have a staff member on the property 24 hours a day, maintain a surveillance camera in the lobby, and

participate in a crime prevention assessment. Motels in the highest tier must implement these same requirements, along with a series of other changes. After the program was adopted, service calls at the city's higher crime motels fells by approximately 60 percent.[153]

D. Rehabilitation Assistance and Affordable Housing Preservation

Owners of smaller multifamily properties face unique challenges in managing their properties and accessing financing to repair the units and bring them up to code. At the same time, the risk of fixing up these properties is that the landlords can then charge higher rents, reducing the supply of affordable housing. Cities around the country have addressed these challenges by offering education on property management as well as programs to assist with financing the rehabilitation of multifamily properties combined with affordable housing preservation. Landlords receive tax abatements or assistance with financing, or both, in exchange for a commitment to keep a portion of the housing affordable. Some programs also provide assistance with mortgage insurance.

A prior report by our UT School of Law Clinic discussed some of these joint rehabilitation/housing preservation programs.[154] Here is a summary of five model programs:

- **New York City Residential Mortgage Insurance Housing Insurance Fund**: The Fund insures up to 75 percent of the principal amount of loans for rehabilitated multifamily and single-family housing in New York City.[155]

- **New Jersey Neighborhood Preservation Balanced Housing Program**: The program provides zero-interest loans for rehabilitating existing affordable rental units with existing health and safety code violations. In exchange for receiving the loans, the property owner must commit to keeping the units affordable for ten years.[156]

- **Chicago Community Investment Corporation**: The Corporation offers a loan pool backed by 14 banks, which has provided rehabilitation financing for more than 35,000 rental units. The program includes the Troubled Buildings Program, which coordinates efforts with multiple city departments and provides rehabilitation loans to address the most troubled multifamily properties. In 2005 alone, the program repaired 1,049 units in 64 troubled buildings.[157]

- **New York City Participation Loan Program**: This New York program provides construction and permanent financing loans for repairing multifamily properties that have at least 20 units and house low- to moderate-income tenants. The City also typically extends tax abatements to participating properties, which must commit to keeping the units affordable.[158]

- **Alameda Rental Rehabilitation Program**: The City of Alameda, California offers two percent interest loans for the rehabilitation of rental properties. The majority of the households in the complex must be low-income, and the majority of the rents cannot exceed the area fair market rent.[159]

E. Criminal Asset Forfeiture

The federal government has the power to seize properties being used for certain types of dangerous criminal activities, including violations of federal drug trafficking laws. Through Operation Goodwill, properties seized by the federal government can then be transferred to community organizations to improve neighborhoods and build goodwill between law enforcement agencies and communities. The properties can be used for affordable housing and other community-based programs. Examples of how Operation Goodwill has been used include:

- In **Tulsa, Oklahoma**, the U.S. Department of Justice seized nine properties in a neighborhood being used to sell cocaine. After the owner and conspirators were convicted, the government seized the properties. Recognizing the risk of selling the property at low prices to speculators and recycling the problem of absentee ownership, the federal government gave the properties to Habitat for Humanity.[160]

- In **Portland, Oregon**, the federal government seized a drive-through business being used for drug distribution and then transferred the property to a neighborhood group to be used as a community center.[161]

- In **Dallas**, the Dallas Area Habitat for Humanity chapter recently worked with the local U.S. Attorney's Office to address four properties being used by a street gang for drug trafficking in an area where Habitat was developing homes. After the properties were forfeited to the U.S. Government, the government transferred the homes to Habitat for redevelopment as affordable housing.[162]

F. Tenant Retaliation

Tenants need greater protection from retaliation for reporting code violations. Austin's anonymous reporting system is insufficient, especially when the code report relates to the interior of a tenant's unit. **Dallas** has adopted a retaliation ordinance that provides enhanced protections for tenants against retaliation actions by landlords in response to code complaints.

SECTION 8. RECOMMENDATIONS FOR ACTION

Based on an examination of Austin's existing policies concerning problem properties and based on an examination of best practices from around the country, here are our top recommendations for addressing problem properties in the Rundberg area and other parts of Austin.

City Policy Actions

1. **Beef up the City's Code Enforcement for Rental Properties.** The City needs to adopt more comprehensive and stronger code enforcement policies for non-owner occupied properties, including policies that identify code violators, that enforce health and safety codes when they are violated, and that remediate code violations when owners fail to do so. Specifically, in this regards:

    a. The City should adopt a self-funding citywide rental registration ordinance to identify code violations and prioritize enforcement actions against the worse rental property code violators (see Recommendation #2).

    b. The City should conduct comprehensive inspections of properties with confirmed code violations, rather than just inspecting the individual violation that was reported. In Woodridge, for example, the walkways were never inspected until they collapsed, since the violations that were reported pertained to other matters.

    c. The City needs to more aggressively prosecute its laws against egregious code violators, including through the more active use of Chapter 54 actions. The City should also be relying more on the routine issuance of civil fines against code violators rather than the current sporadic issuance of criminal citations and should amend its ordinances to assess higher penalties against repeat violators. We also recommend that the Code Compliance Department regularly track rental properties with unpaid code fines and use its authority under state law to place liens on non-owner occupied properties with certain types of code citation fines. See Section 5.

    d. The City should create a remediation program to repair rental properties when owners fail to do so. Receivership actions should be considered for dangerous properties, especially when the risk of tenant displacement is high. The City should use funds from enhanced enforcement actions to help fund the remediation program and also utilize its authority under state law to assess priority liens to cover the repair costs. See Section 5.

    e. The City should publish a monthly report on its website listing multifamily properties with the highest number of notices of violations and code citations.

2. **Adopt a Rental Registration Ordinance**. We recommend that the City adopt a citywide rental registration ordinance that includes the following features:

   a. Require mandatory registration and periodic inspections of all multifamily properties (3+ units). The inspections should cover the exterior and a percentage of the interior units. The ordinance should exempt properties that are less than five years old or are subject to other government inspection programs. The registration and inspection costs should be self-funded through the assessment of fees. Properties should be placed in tiers in accordance with how they perform on the initial inspection and their history of code violations and criminal nuisances. Properties that fail the initial inspection or have a history of repeated code violations and/or habitual criminal activity should be inspected more frequently and subject to higher registration and re-inspection fees. The most egregious violators should also be required to submit a mitigation plan to the City outlining how the owner will address the code violations. In contrast, properties that pass the inspection and have no history of code violations should be inspected less frequently and subject to lower registration fees. Or, as alternative, the City should consider adopting Raleigh's probationary rental occupancy permit model, where owners that fail to bring their properties into timely compliance must pay a fee for a two-year probationary permit. See Section 6 and Appendix 3.

   b. Consider adopting a program that requires non-owner occupied single-family and duplex rental property owners upon each change in tenancy or at least once a year to complete a self-inspection and certification form stating that the unit is free of certain major code violations listed on a city form. The form should be submitted to the City and the tenants. If the units have had multiple code violations within the past three years, they should be subject to the mandatory rental registration and inspection program discussed above.

   c. Incorporate an apartment crime enforcement program into the registration program, modeled on the programs in Dallas and Houston (but include smaller multifamily properties). Properties that meet a crime threshold index should undergo and pay a fee for a special "Crime Prevention through Environmental Design" inspection, and the owners should be required to enter into remedial agreements to reduce crime on the property and attend regular meetings with the police and neighborhood. See Section 3.C.

   d. Modeled on Fort Worth's ordinance, require all landlords in the registration program to comply with basic crime prevention measures on their properties, including requirements for specific lighting and securing of vacant units. See Section 6.C.6.

e. Adopt an educational program for landlords and tenants. Offer an annual training program for rental property owners on property management and crime prevention, modeled on the national Crime Free Rental Housing Program. During the registration process, provide landlords with a packet of information detailing what is needed to pass an inspection, the maintenance process, and code penalties. Make the educational program mandatory for owners of rental properties that fail inspection or properties with prior code citations or high crime rates. See Section 6.C.6.

f. Require all landlords to provide tenants at move-in with a tenant rights handbook created by the City and to post information prominently on the property on how tenants can report code violations. See Section 6.C.7.

3. **Create a Problem Property Unit in the City Attorney's Office.** The City Attorney's Office needs to dedicate more resources to code enforcement and addressing problem properties. We recommend that the Office create a special unit of attorneys modeled on the Dallas City Attorney's program and dedicated solely to enforcing code violations and other problem property laws. Code inspectors should be assigned to the City Attorney's Office to assist with enforcement actions. See Section 3.C.

4. **Create a Citywide Community Prosecutor Program**, modeled on the Dallas program, where community prosecutors from the City Attorney's Office are housed in the community and focus on code compliance, criminal nuisance issues, and other neighborhood quality of life issues utilizing community-focused strategies. The City should initiate this program by assigning a community prosecutor to work in the Rundberg area. See Section 5.F.

5. **Create an Interdisciplinary Problem Property Team with Increased Focus on Criminal Nuisance Abatement.** We recommend the City of Austin create an interdisciplinary "problem property" team that focuses on the most challenging problem properties in the city. We recommend the team be modeled on Dallas's S.AF.E. team program and include a community prosecutor from the City Attorney's Office, a community prosecutor from the district attorney's office, and representatives from the Police Department and Code Compliance Department. As part of an expanded nuisance abatement program, the Austin Police Department should increase the number of nuisance abatement detectives working to address habitual criminal activity on problem properties, and the City Attorney's office should dedicate more resources to prosecuting these actions. The City Attorney's Office needs to be involved earlier on in the nuisance abatement process. Related to this recommendation, we recommend that the City strengthen the working relationships between code officials and police, such as through regular meetings to both review problem properties and collaborate on the development of strategies. See Sections 3 and 5.F.

6. **Increase Training**. We recommend the City of Austin increase training of city staff, including police, on problem-oriented policing, criminal nuisance abatement, and related approaches to addressing problem properties. The training should include information on environmental design issues that may be facilitating crime on properties, how to work with landlords and tenants to address recurring problems, knowing when to bring in code officials for housing conditions, and how to identify and collect evidence on nuisance abatement cases. Personnel in city and county departments should be cross-trained to report code violations.

7. **Economic Impact Study**. We recommend the City of Austin commission a study on the economic impact of problem properties, including the fiscal impact in terms of city staff time responding to 911 calls.

8. **Budget Motels.** We recommend the City of Austin adopt a hotel-motel licensing ordinance, modeled on the award-winning Chula Vista ordinance, which would require hotels and motels in the city to obtain a license and pay an annual fee to cover the cost of program. As a condition of obtaining a license, hotels and motels must adopt basic safety measures, not have any outstanding code violations, and not fall above a crime threshold set by the Police Department. Hotels and motels that fall above the crime threshold can receive a temporary, provisional license conditioned on adopting and following a crime mitigation plan developed with the Austin Police Department. As part of the program, the City should provide motels and hotels with a list of management practices and environmental features that have been proven to lower crime. See Section 7.C.

9. **Technology**. The City needs to create a stronger property information system to inform planning, intervention, and research around problem properties, integrating data from the Code Compliance Department, the Police Department, and other city departments. The property information system should be searchable by a range of criteria and allow the City to publish regular reports on problem properties with the worst code and crime issues. The system should also be GIS compatible to allow for mapping of the data. The database should interface with other databases such as those maintained by the Travis County Appraisal District, the Municipal Court, and the Police Department. The public should have free access to track the status of code complaints as well as statistics and other information on problem properties in their neighborhoods. See Section 5.F.

10. **Protect Tenants from Displacement.** The City of Austin needs to have policies in place that assist tenants when they are displaced as a result of code enforcement actions. These policies should include an emergency tenant relocation ordinance that assists tenants with temporary shelter, moving costs, and other costs of relocation. The property owner should be required to pay for these costs and, if the owner refuses to pay, the city should have a fund in place to pay these costs and then issue a lien on the property. We also recommend that

the City of Austin create an emergency response team, along the lines of New York City's Emergency Housing Response Team, to coordinate communications and the delivery of assistance to tenants who are displaced in emergencies. See Section 5.F.

11. **Adopt a Tenant Retaliation Ordinance.** Within the confines of state preemption law, the City should adopt a tenant retaliation ordinance prohibiting landlord retaliation against tenants and providing for a fine against landlords who retaliate against tenants for reporting code violations. The ordinance should be enforceable by the City in municipal court, with payment of part of the fine to the tenant as restitution, if allowed by law. When the City issues a code citation or notice of violation to a landlord, the City should include a notice in bold letters that city and state laws prohibit retaliation, including eviction, against tenants who report code violations. See Section 7.F.

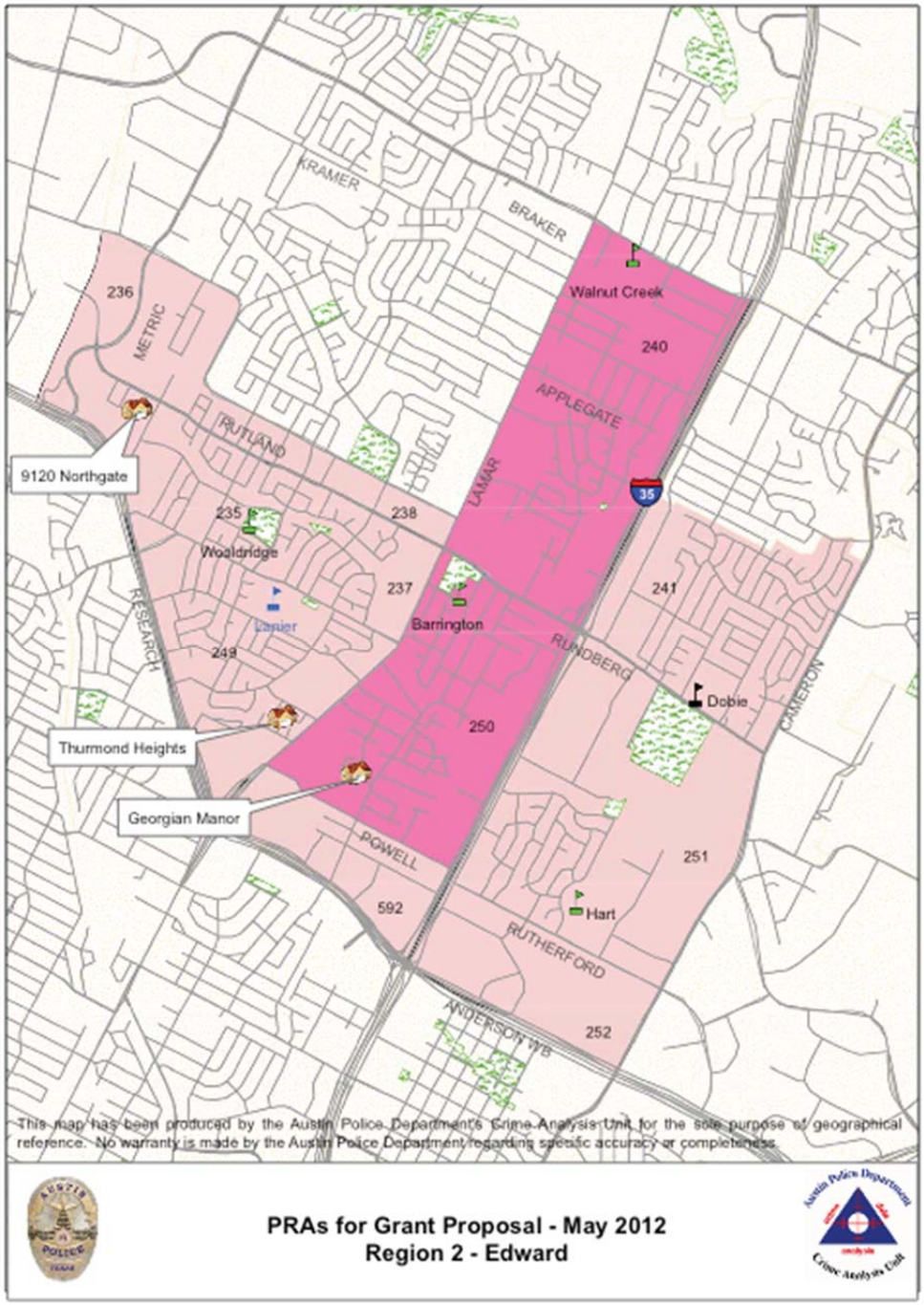
12. **Create a Rehabilitation and Affordable Housing Preservation Program for Older Multifamily Properties**. The City needs a program to provide low-interest financing to multifamily property owners with repair challenges, in order to help the owners rehabilitate their properties. In exchange for the financing, the City should require a commitment by the owners to preserve a portion of the units as affordable housing. To the extent allowed under state law, the City and Travis County should also consider offering tax abatements for increases in taxes as a result of the rehabilitation. The City should also consider partnering with the Austin Apartment Association or other entity to offer education to landlords on property management best practices. See Section 7.D.

Community-Based Actions

1. **Develop Partnerships to Bring Private Nuisance Actions against High-Crime Properties.** We recommend that community groups explore setting up a partnership with a local pro bono legal organization, such as Volunteer Legal Services, to coordinate and assist neighbors of problem properties with private nuisance actions, modeled on the ACT program in Dallas. See Section 4.

2. **Bring Operation Goodwill to Austin**. We recommend that the City of Austin and local nonprofits contact the local U.S. Attorney's Office to explore opportunities to shut down known drug houses and, through Operation Goodwill, transform those properties into affordable housing and other community assets. See Section 7.E.

APPENDIX 1: MAP OF RESTORE RUNDBERG AREA



APPENDIX 2: STUDIES ON PROACTIVE VERSUS COMPLAINT-DRIVEN CODE ENFORCEMENT SYSTEMS

As discussed in Section 6 of this Report, studies have found that complaint-driven code enforcement systems result in under-identification of problem properties, including many of those with serious and life threatening code violations. The following is a summary of some of these studies:

Seattle: In a study examining Seattle's complaint-drive code enforcement system, 350 randomly-selected apartment buildings were selected for inspections. The study found that the inspections in more than half of the properties identified code violations that tenants and neighbors had never reported.[163] Out of the buildings where inspections identified code violations, 78 percent of the violations had not been reported to the City, including many of the most serious violations. The study concluded that a reactive, reporting-based code enforcement system is "hampered by multiple factors including: general lack of knowledge of housing code standards, language barriers, and fear of landlord retribution," even in spite of strong legal protections.[164] The City is now in the middle of implementing a mandatory registration and inspection program.

San Francisco: In another study,[165] volunteers from the Chinese Progressive Association surveyed 197 tenants in 157 different apartment buildings and single-room occupancy (SRO) hotels in San Francisco's Chinatown to assess the extent of code violations. In the survey, 62 percent of tenants said they had multiple code issues in their apartments but only 28 percent of the tenants had complained to their landlord about their code issues, and only 11 percent of tenants had reported the violation to a government agency or a community organization.[166]

Memphis: A study in the City of Memphis likewise found large under-reporting of code violations.[167] The study found that complaint-based code enforcement identified only about 20 percent of code violations in Memphis neighborhoods. In one particular low-income neighborhood, the Binghampton community, the study found that 19 properties in the community were in poor enough condition that they needed to be condemned. Yet, these properties were not in the City's system and had not come to the attention of code officials. A visual survey also found that at least half of the 35 occupied multifamily properties (1,200 total units) in the Binghampton community of Memphis had serious code violations, including the following issues:

- 20% properties without intact and secure doors or doorframes;
- 25% properties with unsecured windows, most of which were broken out; and
- 12% with holes in the walls.

Yet the city had recorded code violations for only 8 of the units.[168]

The author of the Memphis study concluded that a complaint-based system is a barrier in deteriorating, poorer neighborhoods and a barrier to the early identification of problem properties before they rise to the level of a public safety hazard. As further summarized in the study: "Given that citizen-driven complaints tend to be about environmental or vehicle nuisances, it appears that for many neighborhoods deterioration of the housing stock is simply taken for granted and not a cause of action. These neighborhoods tend to be low-income, a situation which for many reasons can be associated with lowered expectations."[169]

Asheville: In Asheville, North Carolina, which inspects both rental and owner-occupied units, the number of residential fires decreased by 50 percent during the period when the city required proactive inspections of all units. After the city switched back to a complaint-based code program, residential fires rose by 122 percent.[170] The city also saw a decrease in housing code complaints from 227 to 60 during the time the city operated a mandatory inspection program for all properties; the complaints rose to 189 in 2007 after Asheville switched back to the complaint-based program.

APPENDIX 3: COMPARISON OF RENTAL REGISTRATION AND INSPECTION ORDINANCES

City	Properties Covered	Inspections	Fees	Other
Arlington, TX[171]	One program for all mf props of 3+ units; a separate program for all non-owner occupied duplexes.	Annual inspections. Duplex units that pass exterior inspection are not inspected internally.	Annual registration. Registration fee of $13.80/unit; one free re-inspection then $150 fee for re-inspections on the same violation. Extended stay hotels must pay $86.04/room.	Separate program for duplexes. Inspection scores posted on Internet.
Boston	All rental units	Inspections conducted on 5-year cycle except for problem properties, which have annual inspections.	Annual registration. Initial registration fee: $25/unit with $15 annual renewal fee. Fee capped at $2,500/building and $5,000/complex. Inspection fee: Fee based on units actually inspected; $50/unit for props with 1-3 units, $75/unit for 4+ units.	New program adopted in 2013. Boston offers an alternative 5-year inspection program for properties that apply and meet certain requirements.
Dallas Non-Owner Occupied Rental Program	All non-owner-occupied single-family and duplex properties.	Inspections required only if complaints received (registration required regardless of complaints).	Annual registration. $25/unit initial registration fee; free renewal fee if no code violations. Inspection fee of $50/unit for structural code issues (but inspection only if complaints).	Lessons learned: Having a hard time identifying and getting smaller properties into the registration system. Need to have a process in place up front to identify these units, such as working with water utility department.

City	Properties Covered	Inspections	Fees	Other
Dallas Multi-Tenant Registration	Multifamily properties of 3 or more units and at least 5 yrs old.	Once every 3 years.	Annual registration. $10/unit registration fee. Inspection is free unless fail then $20/unit x total units (non-structural), $30/unit x total units (structural) and $50 re-inspection for each unit/building inspected.	Must use crime prevention lease agreement and attend 3 neighborhood crime watch meetings in the year and an annual SAFE complex symposium. City collects $2.3m annually in multi-tenant registration fees and $211,000 in re-inspection fees. There are approximately 220,000 units in the program and 2,596 properties. Lessons learned: Need a process at the back end to collect unpaid inspection fees. Dallas does not have a process, which has been an issue in collecting re-inspection fees.
Fort Worth[172]	Multifamily properties with 3 or more rental units. One- and two-family properties must register only if code violations.	Inspections at least once every two years. At change of ownership, mf properties must be inspected before receiving a new certificate of occupancy. Police department also inspects all mf complexes of 8+ units for free via a Crime Prevention through Environmental Design inspection.	Multifamily program: Annual registration fee of $25 for first unit; $10 for each additional unit. Single-family/duplex program: $200 registration fee for each unit with record of code violations. If property fails inspection, $25/unit for re-inspection.	Landlords required to conduct annual inspection with tenants and to give tenants the "Fort Worth Rental Handbook" outlining their rights.

City	Properties Covered	Inspections	Fees	Other
Houston Blue Star Multi-Housing Program	Any multifamily property is eligible—voluntary program.	Annual inspections for apartments that elect to be in program; police conduct a crime prevention environmental design analysis and look at crime reports.	Free.	100 properties in the program; City lists on website. Dallas has a very similar "Gold Star" program for multifamily complexes with 10 or more units.
Houston Apartment Crime Enforcement Program	Multifamily of 10 or more units.	After running computer formula every 2 years, police inspect properties that are classified as "remedial properties" that trigger a "crime risk threshold"." Program is mandatory for the high-crime properties.	Properties are already registered via the City's multifamily registration program. $400 inspection fee.	Police conduct a "crime prevention through environment design" (CPTED) inspection and enter into remedial agreement with owner. Owner must attend PIP (positive interaction meetings) each month with police and the local community, and also conduct crime prevention meetings with tenants that police attend. Dallas police department runs a very similar program.[173]
Houston Multifamily Registration	Multifamily properties of 3 or more units.	Inspected once every 5 years; only exterior. Inspects 100-120 properties/month. 2 inspectors visit each property: electrical and structural inspector	Annual Registration. No registration fee. Inspection fee of $10/unit.	Compiled list of properties from appraisal district and city permits. Program is not self-funding; relies on external funding. 5,000 total mf properties.
Los Angeles (Systematic Code Enforcement Program)[174]	All rental properties with 2 or more occupied units.	Once every three years, but worst buildings inspected more frequently.	Annual registration. Registration fee: $43.32/unit. Additional fees may be charged if fail re-inspection.	Won the Fannie Mae Innovations in Government Award in Affordable Housing in 2005.

City	Properties Covered	Inspections	Fees	Other
Minneapolis	All non-owner occupied rental units; new construction exempted.	No regular inspections. Inspections required only if complaints, property changes ownership or converted to rental, or no license for 12 months.	Annual registration. Registration fee: $69 for first rental unit; $19 for each additional unit in the property. No inspection fee.	Owners required to hang a 3-1-1 poster in common areas with information for tenants on reporting code violations.
Philadelphia Rental Inspection License Program[175]	All rental properties except owner-occupied duplexes.	Inspections not done unless tenant requests them.	Annual registration. Registration fee: $50/unit (max fee: $20,000)	Also has a vacant property registration requirement with a $150 fee/property.
Plano[176]	Multifamily properties with 5 or more units older than 5 years (originally properties 5-10 years old also exempted).	Annual inspections.	Annual registration. Registration fee: $10/unit No initial inspection fee and first re-inspection is free. $150 for the second re-inspection; $300 for third re-inspection.	
Raleigh, NC[177]	All rental properties.	Inspections only if problems reported.	Annual registration. Registration fee: $15/property for 3 or less units; $25/property for 4-19 units; $50/property for 20+ units Additional fee of $30/unit at initial registration. No inspection fee.	Must obtain a probationary rental occupancy permit if fail to bring property into timely compliance. Must pay $500 for a 2-year permit and attend City-approved property management course and remain in compliance with city codes.

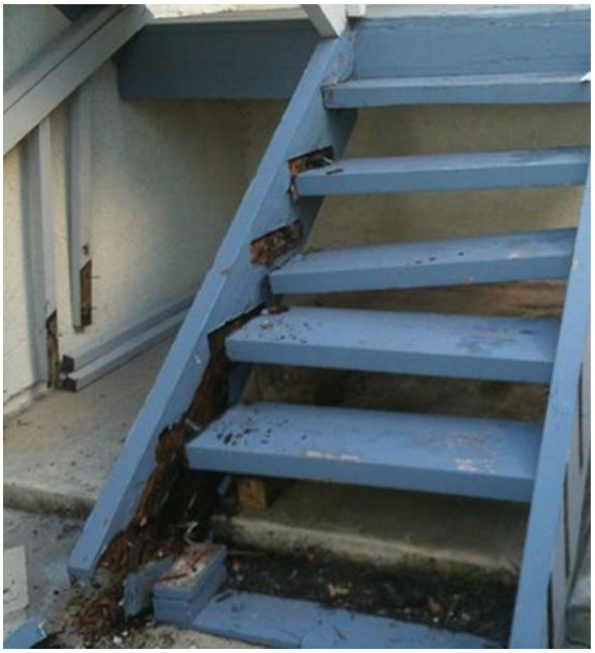
City	Properties Covered	Inspections	Fees	Other
Sacramento, CA	All non-owner occupied rental units; rental units less than 5 years old may be exempt.	Initial mandatory inspection. If pass, then placed in Self-Inspection Certification Program where property owner inspects the property once a year and at change in tenancy, using city checklist. Random inspections by City of at least 10% of self-certification units.	Annual registration. Registration fee: $28/unit. Initial inspection and first 30-day re-inspection are free. $127 fee for follow-up inspections.	Landlord must provide tenants with a Residents Rights form created by local landlord-tenant nonprofit agency.
Seattle[178]	All rental properties; program being rolled out in phases based on # of units.	Each property inspected at least once every 10 years. 10% of all rental properties selected randomly for inspection each year. Units with two or more code violations inspected in first year of program.	Registration must be renewed every 5 years. Fee structure under development.	New program passed unanimously by the Seattle City Council in 2012.

APPENDIX 4: EXAMPLES OF EXTREMELY DANGEROUS AND OTHER SUBSTANDARD CODE CONDITIONS IN AUSTIN

Stairway being held up only by nails and pulling away from walkway.

Handrail no longer anchored adequately and pulling away from structure.

Sagging horizontal member beam and bowing support post not strong enough to carry imposed load.



Rotting stairway missing treads, handrails, and guards.

Post supporting roof is inadequate with risk of roof collapsing.

Second floor walkway becoming detached from support posts and at risk of collapsing.

Mold on interior walls and floors.

Missing tiles, rotting wall, mildew, and mold.

Endnotes

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[3] COMMUNITY DEVELOPMENT CLINIC AT THE UNIVERSITY OF TEXAS SCHOOL OF LAW, TEXAS PROBLEM PROPERTIES TOOLKIT: A RESOURCE TO HELP COMMUNITIES ADDRESS PROBLEMS CREATED BY VACANT AND ABANDONED PROPERTIES (2010 ed.), *available at* http://www.utexas.edu/law/clinics/community/ProblemPropertiesTexasToolkit10web.pdf.

[4] *Id.;* CITY OF AUSTIN, RESTORE RUNDBERG WEBSITE, http://www.sws.ci.austin.tx.us/department/restore-rundberg.

[5] *Id*.

[6] Dave Harmon, *Rundberg area hopes new police operations will succeed where past efforts failed to root out chronic crime*, AUSTIN-AMERICAN STATESMAN (Mar. 23, 3013), http://www.statesman.com/news/news/crime-law/north-austin-area-hopes-new-police-operation-will-/nW25b/.

[7] CODE COMPLIANCE RESPONSE TO MULTIFAMILY, CHART PREPARED BY THE CITY OF AUSTIN CODE COMPLIANCE DEPARTMENT FOR THE AUSTIN CITY COUNCIL (2013) (on file with authors).

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[10] *See, e.g*., John Eck and Julie Wartell, *Improving the Management of Rental Properties with Drug Problems: A Randomized Experiment*, 9 CRIME PREV. STUDIES 161 (1998), *available at* http://www.popcenter.org/library/crimeprevention/volume_09/ImprovingtheManagement.pdf; JOHN ECK, PREVENTING CRIME AT PLACES, *in* PREVENTING CRIME: WHAT WORKS, WHAT DOESN'T, WHAT'S PROMISING, (Sherman, et al, eds. 1997), *available at* https://www.ncjrs.gov/works/chapter7.htm; Arthur J. Lurigio, et al, *More Effective Place Management: An Evaluation of Cook County's Narcotics Nuisance Abatement Unit*, 9 CRIME PREV. STUDIES 187 (1998), *available at* http://www.popcenter.org/library/crimeprevention/volume_09/MoreEffectivePlaceManagement.pdf.

[11] Tex. Civ. Prac. & Rem. Code, § 125.002(b) (2012).

[12] Tex. Civ. Prac. & Rem. Code, § 125.064 (2012).

[13] Tex. Civ. Prac. & Rem. Code, §§ 125.002(a), 125.064(a) (2012).

[14] Tex. Civ. Prac. & Rem. Code, § 125.004(a) (2012).

[15] Tex. Civ. Prac. & Rem. Code, § 125.044 (2012).

[16] Tex. Civ. Prac. & Rem. Code, § 125.002(h) (2012).

[17] John E. Eck & Julie Wartell, *Improving the Management of Rental Properties with Drug Problems: A Randomized Experiment*, 9 CRIME PREV. STUDIES 161, 178 (1998), *available at* http://www.popcenter.org/library/crimeprevention/volume_09/ImprovingtheManagement.pdf.

[18] Tex. Civ. Prac. & Rem. Code, § 125.002(d) (2012).

[19] Tex. Civ. Prac. & Rem. Code, § 125.046 (2012).

[20] The manual is available at https://www.oag.state.tx.us/ag_publications/pdfs/2005nuisance.pdf.

[21] Information provided by Dr. David Kirk of the University of Texas at Austin, based on analysis of 2012 APD criminal incident data archived at: http://www.krimelabb.com/_nca1/view/v_regions.php. While not all of these reported crimes likely fall under the nuisance abatement statute, these numbers are still revealing as to how certain properties generate a high volume of crime.

[22] John E. Eck & Julie Wartell, *Improving the Management of Rental Properties with Drug Problems: A Randomized Experiment*, 9 CRIME PREV. STUDIES 161, 178 (1998), *available at* http://www.popcenter.org/library/crimeprevention/volume_09/ImprovingtheManagement.pdf.

[23] *Id.*

[24] Dave Harmon, *At motels near Rundberg Lane, managers say deterring crime requires tough policies and some unpleasant confrontations*, AUSTIN-AMERICAN STATESMAN (May 11, 2013), http://www.statesman.com/news/news/crime-law/at-motels-near-rundberg-lane-managers-say-deterrin/nXmwg/.

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[28] CITY OF SAN DIEGO, CITY ATTORNEY'S OFFICE, CODE ENFORCEMENT UNIT, http://www.sandiego.gov/cityattorney/divisions/communityjustice/ceu/.

[29] CITY OF ARLINGTON, STATE OF THE CITY ATTORNEY'S OFFICE: ANNUAL REPORT TO CITY COUNCIL (Oct. 2011 – Sept. 2012), at 11-12, *available at* http://www.arlingtontx.gov/cityattorney/pdf/2012_StateofCAO.pdf.

[30] LOCAL INITIATIVES SUPPORT CORPORATION, COMMUNITY SAFETY INITIATIVE, AUBURN BOULEVARD REVITALIZATION: RESTRUCTURING POLICE AND PRACTICE, *available at* http://www.lisc.org/docs/publications/Auburn%20Case%20Book.pdf.

[31] *Id*.

[32] SUMMARY OF THE OAKLAND BEAT HEALTH PROGRAM, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION WEBSITE, U.S. DEPT. OF JUSTICE, *available at* http://www.ojjdp.gov/mpg/Oakland%20Beat%20Health%20Program-MPGProgramDetail-454.aspx.

[33] CITY OF HOUSTON POLICE DEPARTMENT, BLUE STAR MULTI-HOUSTON PROGRAM WEBSITE, http://www.houstontx.gov/police/multi_family/.

[34] B.J. LUMPIN, ASSISTANT CHIEF, NORTH PATROL COMMAND, HOUSTON POLICE DEPARTMENT, REMEDIAL ACTION PROGRAM, END OF YEAR REPORT 2010 (Aug. 15. 2011) (on file with authors).

[35] U.S. DEPT. OF JUSTICE, BUREAU OF JUSTICE ASST, KEEPING ILLEGAL ACTIVITY OUT OF RENTAL PROPERTY: A POLICE GUIDE FOR ESTABLISHING LANDLORD TRAINING PROGRAMS, at 38-39, *available at* https://www.ncjrs.gov/pdffiles1/bja/148656.pdf.

[36] *Id*. at 39.

[37] CITY OF SAN DIEGO, OFFICE OF THE CITY ATTORNEY, 2010 ANNUAL REPORT, *available at* http://www.sandiego.gov/cityattorney/pdf/ar110603.pdf.

[38] A summary of the City of Portland's Drug House Program is available at http://www.portlandoregon.gov/police/article/34038.

[39] *See* U.S. DEPT. OF JUSTICE, BUREAU OF JUSTICE ASST., KEEPING ILLEGAL ACTIVITY OUT OF RENTAL PROPERTY: A POLICE GUIDE FOR ESTABLISHING LANDLORD TRAINING PROGRAMS, at 37, *available at* https://www.ncjrs.gov/pdffiles1/bja/148656.pdf.

[40] *Id.* at 38-39.

[41] Los Angeles Municipal Code § 47.50 (2013).

[42] CITY OF DALLAS CRIME PREVENTION ADDENDUM, *available at* http://dallascityhall.com/code_compliance/Downloads/MT/CrimePreventionLeaseAddendum.pdf.

[43] OFFICE OF SAN DIEGO CITY ATTORNEY, 2010 ANNUAL REPORT, at 53-58, *available at* http://www.sandiego.gov/cityattorney/pdf/ar100525.pdf.

[44] Information provided by the City of Dallas's City Attorney's Office. This number includes 13 community prosecutors, as well as 4 attorneys in Code Compliance and Environmental Litigation Section. According to the City's website, the Section was created in December 2000 "to deal specifically with criminal and code violations found at homes, apartment complexes, motels, dump sites, and businesses throughout the City." The Section seeks "to encourage owners to remedy problems on their properties and, if they do not, to file lawsuits against the owners, seeking injunctive relief and civil penalties." DALLAS CITY ATTORNEY, CODE COMPLIANCE AND ENVIRONMENTAL LITIGATION WEBPAGE, http://www.dallascityattorney.com/Code_Compliance.html. The community prosecutors spend time on a range of neighborhood quality of life issues including but not limited to problem properties.

[45] The 1.5 attorney figure is developed from information provided by the City of Austin City Attorney's Office that there are only two attorneys who work on the prosecution of nuisance abatement and other problem property cases, amongst other duties, with each attorney spending less than 25% of his or her time prosecuting problem property cases. In addition, one former assistant city attorney has been recently assigned to work full-time within the Code Compliance Department on legal issues related to code enforcement.

[46] City of COLUMBUS, OHIO, CITY ATTORNEY WEBSITE, *available at* http://www.columbuscityattorney.org/civil-zoneinitiative.aspx.

[47] Phone call with Darby DuComb, Chief of Staff, Seattle City Attorney's Office (June 12, 2013).

[48] CITY OF DENVER, CITY ATTORNEY WEBSITE, *available at* http://www.denvergov.org/city_attorney/DenverCityAttorney/FindAttorneys/ByAreaofPractice/tabid/443257/Default.aspx. The City has one attorney dedicated to the Neighborhood Prosecution practice area and three attorneys dedicated to Nuisance Abatement.

[49] *Barnes v. Mathis*, 353 S.W.3d 760, 763 (Tex. 2011) (per curiam)
[50] *Aguilar v. Morales*, 162 S.W.3d 825 (Tex. App.-El Paso 2005, pet. denied).

[51] ACT's website is www.actdallas.org.

[52] *See* PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS, Memphis Shelby Crime Commission (Apr. 2001), *available at* http://cbana.memphis.edu/GenResearch/BestPracticeNumber10Fixing_Broken_Windows.pdf; ALAN MALLACH, MEETING THE CHALLENGE OF DISTRESSED PROPERTY INVESTMENTS IN AMERICA'S NEIGHBORHOODS (Local Initiatives Support Corporation), at 47, *available at* http://www.stablecommunities.org/sites/all/files/library/1228/distressed-property-investors-mallach.pdf.
[53] Silvana Hackett, et al, RENTAL LICENSING TO ACHIEVE COMPLIANCE, Center for Urban and Regional Affairs, Univ. of Minn. (2012), at 6, *available at* http://www.ci.roseville.mn.us/DocumentCenter/View/11028.

[54] *Id.* (quoting Duncan Kennedy, *The Effect of the Warranty of the Habitability on Low Income Housing: 'Milking' and Class Violence*, 15 FLORIDA STATE UNIV. L.R. 485, 506 (1987)).

[55] CAPITOL MARKET RESEARCH, AUSTIN APARTMENT MARKET: 2012 YEAR END SUMMARY, *available at* http://cmraustin.com/aptsum_dec_2012.pdf.

[56] U.S. CENSUS BUREAU, QUICKFACTS FOR AUSTIN, TEXAS, *available at* http://quickfacts.census.gov/qfd/states/48/4805000.html

[57] Information obtained from the City of Austin Code Department based on information from the Travis County Appraisal District.

[58] These estimates are based on data developed by Dr. Elizabeth Mueller, University of Texas at Austin, the City of Austin Code Compliance Department, and data from the Travis County Appraisal District and American Community Survey.

[59] Richard Whittaker, *Attempting to Comply*, AUSTIN CHRONICLE (Sept. 30, 2011), http://www.austinchronicle.com/news/2011-09-30/attempting-to-comply/

[60] Most of this subsection's information was gathered from interviews in Spring 2013 with Keith Leach, Code Division Manager, and Manuel Villegas, Inspector, both with the City of Austin Code Compliance Department.

[61] Tex. Local Govt. Code § 54.001 (2012).

[62] Tex. Local Govt. Code § 54.036 (2012).

[63] Tex. Local Govt. Code § 54.037 (2012).

[64] *See* Jennifer Richie and Janet Spugnardi, *Substandard Building Issues: City of Dallas v. Heather Stewart and More*, CLE Paper Presented at the Texas City Attorneys Association (June 7, 2012) (discussing impact of Texas Supreme Court ruling in *City of Dallas v. Heather Stewart II*), *available at* http://www.texascityattorneys.org/2012speakerpapers/summerconference/Substandard_Building_Issues-Paper.pdf

[65] Tex. Local Govt. Code § 54.003. Chapter 54 actions can also be filed in municipal court of record if jurisdiction has been established by ordinance.

[66] Tex. Local Govt. Code § 54.012 (2012).

[67] Tex. Local Govt. Code § 54.017 (2012).

[68] Tex. Local Govt. Code § 54.016 (2012).

[69] Jazmine Ulloa, *Contract signed but problems far from over at Southeast Austin complex*, AUSTIN-AMERICAN STATESMAN (Dec. 12, 2012), http://www.statesman.com/news/news/local/contract-signed-but-problems-far-from-over-at-sout/nTTmF/.

[70] Julie Chang, *Wood Ridge tenants could have new owner*, AUSTIN-AMERICAN STATESMAN (Apr. 25, 2013), http://www.mystatesman.com/news/news/local/wood-ridge-tenants-could-have-new-owner/nXXGQ/.

[71] Eric Dexheimer, *History repeats itself at apartments deemed unsafe by city*, AUSTIN-AMERICAN STATESMAN (June 10, 2012), http://www.statesman.com/news/news/local/history-repeats-itself-at-apartments-deemed-unsa-1/nRpNm/.

[72] PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS (Memphis Shelby Crime Commission, Apr. 2001), *available at* http://cbana.memphis.edu/GenResearch/BestPracticeNumber10Fixing_Broken_Windows.pdf.

[73] For example, in a recent Austin American-Statesman story, code staff reported that they didn't know "how many apartments out there were in really bad condition." Eric Dexheimer, *History repeats itself at apartments deemed unsafe by city*, AUSTIN-AMERICAN STATESMAN (June 10, 2012), http://www.statesman.com/news/news/local/history-repeats-itself-at-apartments-deemed-unsa-1/nRpNm/.

[74] *See* Appendix 2.

[75] Amy E. Lerman & Vesla Weaver, *Staying Out of Sight: Concentrated Policing and Local Political Action*, ANNALS OF THE AM. ACAD. OF POL. AND SOCIAL SCIENCE (forthcoming 2014).

[76] CITY OF AUSTIN 2012-13 APPROVED BUDGET, VOLUME 1, *available at* https://assets.austintexas.gov/budget/12-13/downloads/Vol_I_Combined.pdf

[77] CITY OF DALLAS CODE COMPLIANCE DEPARTMENT, FY 09/10 BUDGET OVERVIEW, PRESENTED TO THE DALLAS CITY COUNCIL FINANCE AND AUDIT COMMITTEE (Apr. 26, 2010), *available at* http://dallascityhall.com/committee_briefings/briefings0410/BFA_CodeFY09-10_%20BudgetOverview_042610.pdf.

[78] Estimates based on data obtained from the City of Austin Code Compliance Department, List of "Repeat Offender" multifamily properties between October 1, 2007, and June 6, 2013 (on file with authors; version sent by Department on July 15, 2013), and e-mail exchanges with Code Compliance Department staff.

[79] *Id.*

[80] E-mail from Robert Curry, Manager, Quality Assurance and Special Projects, Department of Code Compliance, City of Dallas (July 2, 2013) (on file with authors).

[81] SILVANA HACKETT, ET AL, RENTAL LICENSING TO ACHIEVE COMPLIANCE (Center for Urban and Regional Affairs, Univ. of Minn., 2012), at 6, *available at* http://www.ci.roseville.mn.us/DocumentCenter/View/11028.

[82] PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS (Memphis Shelby Crime Commission, Apr. 2001), *available at* http://cbana.memphis.edu/GenResearch/BestPracticeNumber10Fixing_Broken_Windows.pdf.

[83] *Id*.

[84] JOSEPH SCHILLING & ELIZABETH SCHILLING, LOCAL INITIATIVES SUPPORT CORPORATION, LEVERAGING CODE ENFORCEMENT FOR NEIGHBORHOOD SAFETY: INSIGHTS FOR COMMUNITY DEVELOPERS, *available at* http://www.lisc.org/docs/publications/Leveraging%20Code%20Enforcement_LISC-CSI.pdf.

[85] THE UNITED STATES CONFERENCE FOR MAYORS, COMBATING PROBLEMS OF VACANT AND ABANDONED PROPERTIES: BEST PRACTICES IN 27 CITIES (June 2006), *available at* http://www.usmayors.org/bestpractices/vacantproperties06.pdf

[86] WEBSITE FOR LEADERS FOR COMMUNITIES, NEIGHBORWORKS AMERICA, http://www.leadersforcommunities.org/group/strategiesthatwork/forum/topics/community-holds-roundtable.

[87] Steven Jansen, *Working with a Neighborhood Community Prosecutor*, POLICE CHIEF (July 2006), *available at* http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=933&issue_id=72006.

[88] BUREAU OF JUSTICE ASSISTANCE, U.S. DEPT. OF JUSTICE, COMMUNITY PROSECUTION TECHNIQUES TO REDUCE DRUG-RELATED GANG ACTIVITY, *available at* http://www.ndaa.org/pdf/pub_cp_techniques_reduce.pdf.

[89] CITY OF SEATTLE, PRECINCT LIAISON PROGRAM WEBSITE, http://www.seattle.gov/law/precinct_liaisons/.

[90] ALAN MALLACH, BRINGING BUILDINGS BACK: FROM ABANDONED PROPERTIES TO COMMUNITY ASSETS (2006), at 41-42.

[91] JOSEPH SCHILLING & ELIZABETH SCHILLING, LOCAL INITIATIVES SUPPORT CORPORATION, LEVERAGING CODE ENFORCEMENT FOR NEIGHBORHOOD SAFETY: INSIGHTS FOR COMMUNITY DEVELOPERS, *available at* http://www.lisc.org/docs/publications/Leveraging%20Code%20Enforcement_LISC-CSI.pdf.

[92] *Id*.

[93] ALAN MALLACH, BRINGING BUILDINGS BACK: FROM ABANDONED PROPERTIES TO COMMUNITY ASSETS (2006), at 44.

[94] CLEVELAND HOUSING COURT WEBSITE, http://www.clevelandhousingcourt.org.

[95] CITY OF WACO, CODE ENFORCEMENT WEBPAGE, http://www.waco-texas.com/code-enforcement.asp

[96] ALAN MALLACH, BRINGING BUILDINGS BACK: FROM ABANDONED PROPERTIES TO COMMUNITY ASSETS (2006), at 45.

[97] Amy Hillier, et al, *Predicting Housing Abandonment with the Philadelphia Neighborhood Information System*, 25 J. URBAN AFF. 91, 92 (2003).

[98] PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS, Memphis Shelby Crime Commission (Apr. 2001), *available at* http://cbana.memphis.edu/GenResearch/BestPracticeNumber10Fixing_Broken_Windows.pdf.

[99] Amy Hillier, et al, *Predicting Housing Abandonment with the Philadelphia Neighborhood Information System*, 25 J. URBAN AFF. 91, 92 (2003).

[100] *Id*.

[101] CAL. HEALTH AND SAFETY CODE, §§ 17975–17975.10.

[102] CITY OF OAKLAND, CODE ENFORCEMENT RELOCATION PROGRAM WEBPAGE, http://www2.oaklandnet.com/Government/o/hcd/s/HSC/DOWD008655.

[103] CITY OF CINCINNATI, COMMUNITY DEVELOPMENT DEPARTMENT, EMERGENCY RELOCATION ASSISTANCE WEBPAGE, http://www.cincinnati-oh.gov/community-development/housing-assistance/emergency-relocation-assistance/.

[104] ALAN MALLACH, MEETING THE CHALLENGE OF DISTRESSED PROPERTY INVESTMENTS IN AMERICA'S NEIGHBORHOODS (Local Initiatives Support Corporation), at 46, *available at* http://www.stablecommunities.org/sites/all/files/library/1228/distressed-property-investors-mallach.pdf.

[105] *See, e.g*., Guadalupe Luna, *Immigrants, Cops and Slumlords in the Midwest*, 29 SOUTHERN ILLINOIS UNIV. L.J. 61, 89 (2004) ("Tenants' fears of retaliation from landlords, coupled with the lack of alternative housing effectively stifles complaints of tenants who are weary of possible eviction.").

[106] SILVANA HACKETT, ET AL, RENTAL LICENSING TO ACHIEVE COMPLIANCE (Center for Urban and Regional Affairs, Univ. of Minn., 2012), *available at* http://www.ci.roseville.mn.us/DocumentCenter/View/11028.

[107] CAROL HICKEY, ENSURING HOUSING QUALITY: PROACTIVE MINIMUM HOUSING CODE INSPECTIONS OF RENTAL PROPERTIES IN NORTH CAROLINA CITIES, Paper submitted for Masters of Public Admin. at UNC Chapel Hill (Apr. 8, 2008), *available at* http://ghc.illkd.com/wp-content/uploads/2008/04/enhancinghousingquality.pdf.

[108] *Id*.

[109] U.S. CENSUS BUREAU, 2011 AMERICAN COMMUNITY SURVEY 1-YEAR ESTIMATES, SELECTED HOUSING CHARACTERISTICS.

[110] Andy Alford, *City's affordable housing squeeze means code violations are often ignored*, AUSTIN AMERICAN-STATESMAN, at A1 (Dec. 16, 2002).

[111] *Id.*

[112] Isadora Vail, *Apartment fixes ordered after 2 die from gas poisoning*, AUSTIN AMERICAN-STATESMAN (Feb. 9, 2011), *available at* http://www.statesman.com/news/news/local/apartment-fixes-ordered-after-2-die-from-gas-poiso/nRXRj/

[113] Austin City Council, Agenda Item No. 100, Resolution Relating to the Development of a Residential Rental Registration Program (July 23, 2009).

[114] Austin City Council Res. No. 20130606-050 (June 6, 2013).

[115] Austin City Council Res. No. 20130606-049 (June 6, 2013).

[116] AUSTIN BOARD OF REALTORS, PUBLIC POLICY POSITIONS, *available at* http://www.abor.com/gov_affairs/ABoRGovPolicy.cfm.

[117] City of Austin Ord. No. 20120802-122; CITY OF AUSTIN SHORT-TERM RENTAL LICENSING WEBSITE, http://www.austintexas.gov/str.

[118] See Appendix 2 for an overview of these studies' findings.

[119] MONTGOMERY COUNTY TENANTS WORK GROUP REPORT (March 2010), at 12, *available at* http://www6.montgomerycountymd.gov/Content/EXEC/TWG/pdf/twg_report_3-2010.pdf. A report on Roseville, Minnesota, also identified a concern that many tenants are afraid of retaliation from landlords and so do not make complaints about their housing conditions. According to the report: "When interviewed, [code] inspectors felt that this is a particularly salient issue in Roseville because of the relatively large population of refugees residing in properties that are known to have the worst property maintenance issues." SILVANA HACKETT, ET AL, RENTAL LICENSING TO ACHIEVE COMPLIANCE, Center for Urban and Regional Affairs, Univ. of Minn. (2012), *available at* http://www.ci.roseville.mn.us/DocumentCenter/View/11028.

[120] RESEARCH AND PLANNING DIVISION, TRAVIS COUNTY HEALTH AND HUMAN SERVICES & VETERAN SERVICE, HOUSING: SECTION VI OF THE 2006-2007 TRAVIS COUNTY IMMIGRANT ASSESSMENT, at 69-70, *available at* http://www.co.travis.tx.us/health_human_services/research_planning/pdfs/immigrant_assessment_report_2007/06_Housing.pdf.

[121] *Id.*

[122] Comment, *Protecting the Good-Faith Tenant: Enforcing Retaliatory Eviction Laws by Broadening the Residential Tenant's Options in Summary Eviction Courts*, 63 Oklahoma L. R. 101, 106 (2010).

[123] PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS (Memphis Shelby Crime Commission, Apr. 2001).

[124] Matt Stiles, *Houston hires firm to investigate fatal stairway collapse*, HOUSTON CHRON. (July 24, 2008), http://www.chron.com/news/houston-texas/article/Houston-hires-firm-to-investigate-fatal-stairway-1596785.php.

[125] PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS (Memphis Shelby Crime Commission, Apr. 2001).

[126] CITY OF BROOKLYN CENTER, MINNESOTA, WEBSITE FOR RENTAL LICENSES, http://www.cityofbrooklyncenter.org/DocumentCenter/Home/View/277.

[127] ALAN MALLACH, MEETING THE CHALLENGE OF DISTRESSED PROPERTY INVESTMENTS IN AMERICA'S NEIGHBORHOODS (Local Initiatives Support Corporation), at 50, *available at* http://www.stablecommunities.org/sites/all/files/library/1228/distressed-property-investors-mallach.pdf.

[128] *See* International Crime Free Association webpage on Crime Free Rental Housing, at http://www.crime-free-association.org/rental_housing.htm.

[129] *See* U.S. Dept. of Justice, Bureau of Justice Asst., KEEPING ILLEGAL ACTIVITY OUT OF RENTAL PROPERTY: A POLICE GUIDE FOR ESTABLISHING LANDLORD TRAINING PROGRAMS, *available at* https://www.ncjrs.gov/pdffiles1/bja/148656.pdf.

[130] *Id*. at 4. Portland's landlord training program manual is available at http://www.portlandonline.com/bds/index.cfm?a=96790&c=38169.

[131] City of Fort Worth, Ord. No. 19998-12-2011, *available at* http://fortworthtexas.gov/uploadedFiles/City_Secretary/City_Council/Official_Documents/2011_Ordinances/19998-12-2011.pdf.

[132] CITY OF BROOKLYN CENTER, MINNESOTA, WEBSITE FOR RENTAL LICENSES, http://www.cityofbrooklyncenter.org/DocumentCenter/Home/View/277.

[133] This estimate is from Austin's Code Compliance Department and includes salary and benefits as well as work equipment.

[134] CITY OF AUSTIN, DEMOGRAPHIC PROFILE, *available at* http://www.austintexas.gov/sites/default/files/files/Planning/Demographics/city_of_austin_profile_2010.pdf.

[135] We developed the estimates for total number of multifamily (mf) and non-multifamily rental units for Austin using information from the American Community Survey and City of Austin Code Compliance Department, which utilized data from the Travis County Appraisal District and Austin Energy data. TCAD breaks down the number of mf properties by range of units (3 units, 4 units, 5-25 units, 26-49 units, 50-100 units, 100+ units). We multiplied the total number of properties in each category from TCAD by the range of units in that category and came up with a total mf unit range of 83,104 to 173,032. We picked a number close to the middle of this range, 130,000, which is very close to the estimate of 132,514 occupied multifamily rental units from the U.S. Census Bureau's 2009-11 American Community Survey (ACS). To develop our estimate of the non-mf rental units (1-2 units), we subtracted 130,000 (mf units estimate) from the U.S. Census's estimate of 180,000 total rental units in Austin, for a total of 50,000 non-mf rental units (1-2 units). This is similar to the estimate in the ACS survey, which estimates 47,749 single family and duplex rental units. In terms of the estimating the number of non-mf rental properties (1-2 units): We took the ACS estimate of duplex units and divided that by 2 and then added this number to the 35,210 single family properties, for a total of 41,500 non-mf rental properties. Since we wrote the initial draft of this report, the Austin Code Compliance Department has developed a lower estimate of multifamily rental properties in Austin: 3,044.

[136] CITY OF SEATTLE, POWERPOINT PRESENTATION OF NOTES FROM RENTAL REGISTRATION AND INSPECTION ORDINANCE: FEE OPTIONS STAKEHOLDER MEETING (Mar. 4, 2013), *available at* http://ghc.illkd.com/wp-content/uploads/2008/04/enhancinghousingquality.pdf.

[137] U.S. CENSUS BUREAU, 2009-2011 AMERICAN COMMUNITY SURVEY, OCCUPIED HOUSING UNITS IN AUSTIN.

[138] Data obtained from the City of Austin Code Compliance Department, based on data from the Travis County Appraisal District.

[139] Phone call with Geoff Tallent, Program Manager, Rental Registration Program, City of Seattle (June 13, 2013).

[140] CITY OF DALLAS CODE COMPLIANCE DEPARTMENT, FY 09/10 BUDGET OVERVIEW, PRESENTED TO THE DALLAS CITY COUNCIL FINANCE AND AUDIT COMMITTEE (Apr. 26, 2010), *available at* http://dallascityhall.com/committee_briefings/briefings0410/BFA_CodeFY09-10_%20BudgetOverview_042610.pdf.

[141] CITY OF SEATTLE, POWERPOINT PRESENTATION OF NOTES FROM RENTAL REGISTRATION AND INSPECTION ORDINANCE: FEE OPTIONS STAKEHOLDER MEETING (Mar. 4, 2013), *available at* http://ghc.illkd.com/wp-content/uploads/2008/04/enhancinghousingquality.pdf.

[142] Information from the Austin Code Enforcement Department, based on approximations from the Travis County Appraisal District.

[143] We assumed very conservatively that each inspector would complete one multifamily property inspection a day for an average of 4 days a week and 48 weeks each year.

[144] ALAN MALLACH, MEETING THE CHALLENGE OF DISTRESSED PROPERTY INVESTMENTS IN AMERICA'S NEIGHBORHOODS (Local Initiatives Support Corporation), at 51, *available at* http://www.stablecommunities.org/sites/all/files/library/1228/distressed-property-investors-mallach.pdf.

[145] CITY OF BROOKLYN CENTER, MINNESOTA, WEBSITE FOR RENTAL LICENSES, http://www.cityofbrooklyncenter.org/DocumentCenter/Home/View/277.

[146] Dallas City Code, § 27-34 (2013).

[147] CITY OF CHICAGO POLICE DEPARTMENT, HOW CAPS WORKS WEBPAGE, https://portal.chicagopolice.org/portal/page/portal/ClearPath/Get%20Involved/How%20CAPS%20works.

[148] *See* U.S. DEPT. OF JUSTICE, BUREAU OF JUSTICE ASST., KEEPING ILLEGAL ACTIVITY OUT OF RENTAL PROPERTY: A POLICE GUIDE FOR ESTABLISHING LANDLORD TRAINING PROGRAMS, at 33-34, *available at* https://www.ncjrs.gov/pdffiles1/bja/148656.pdf.

[149] CENTER FOR PROBLEM-ORIENTED POLICING, RESPONSES TO THE PROBLEM OF DISORDER AT BUDGET MOTELS, *available at* http://www.popcenter.org/problems/budget_motels/3.

[150] CITY OF CHULA VISTA POLICE DEPARTMENT, REDUCING CRIME AND DISORDER AT MOTELS AND HOTELS IN CHULA VISTA, CALIFORNIA, *available at* http://www.popcenter.org/library/awards/goldstein/2009/09-47(W).pdf.

[151] City of Chula Vista City Code, Chapter 5.39, *available at* http://www.chulavistaca.gov/City_Services/Public_Safety/Police_Department/motels/documents/MotelOrdinance.pdf.

[152] CITY OF CHULA VISTA POLICE DEPARTMENT, REDUCING CRIME AND DISORDER AT MOTELS AND HOTELS IN CHULA VISTA, CALIFORNIA, *available at* http://www.popcenter.org/library/awards/goldstein/2009/09-47(W).pdf.

[153] CENTER FOR PROBLEM-ORIENTED POLICING, RESPONSES TO THE PROBLEM OF DISORDER AT BUDGET MOTELS, *available at* http://www.popcenter.org/problems/budget_motels/3.

[154] UNIVERSITY OF TEXAS SCHOOL OF LAW COMMUNITY DEVELOPMENT CLINIC, PRESERVING AUSTIN'S MULTIFAMILY RENTAL HOUSING (Apr. 2007), *available at* http://www.utexas.edu/law/clinics/community/housingworkspaper.pdf.

[155]FEDERAL RESERVE BANKS OF NEW YORK AND PHILADELPHIA, PRESERVING MULTIFAMILY RENTAL HOUSING, *available at* http://www.newyorkfed.org/regional/commdev/mulit2.pdf (Dec. 2001).
[156] *Id.*

[157] W. DENNIS KEATING, PRESERVING PROPERTIES ON THE EDGE: RAPID RECYCLING OF DISTRESSED AND ABANDONED PROPERTIES (Harvard University Joint Center for Housing Studies, Mar. 2007).

[158] MULTIFAMILY HOUSING PRESERVATION COMMITTEE, FEDERAL RESERVE BANKS OF NEW YORK AND PHILADELPHIA, PRESERVING MULTIFAMILY RENTAL HOUSING: NOTEWORTHY MULTIFAMILY-ASSISTANCE PROGRAMS (Dec. 2001), *available at* http://www.newyorkfed.org/regional/commdev/mulit2.pdf

[159] CITY OF ALAMEDA WEBPAGE, HOUSING DEVELOPMENT – HOUSING ASSISTANCE FOR HOMEOWNERS, *available at* http://www.alamedahsg.org/hd_housing_assistance_subpage.html.

[160] *Id.*

[161] *Id.*

[162] U.S. Attorney's Office for the Northern District of Texas, Press Release, *Justice Department Transfers West Dallas Properties to Dallas Area Habitat for Humanity for Demolition and Development* (Mar. 2013), *available at* http://www.justice.gov/usao/txn/PressRelease/2013/MAR2013/mar26habitat_press_release.html.

[163] JANE E. PROTHMAN, HOUSING: HEALTH AND CODE ENFORCEMENT, degree project for Masters of Public Administration at Univ. of Wash. (2010) (citing MCLERREN AND POWERS, REPORT ON THE HOUSING CODE ENFORCEMENT DEMONSTRATION PROGRAM (Housing Zoning Enforcement Division, Seattle, Wash, 1989)).

[164] *Id*.

[165] CHINESE PROGRESSIVE ASSOCIATION, SUBSTANDARD HOUSING CONDITIONS IN SAN FRANCISCO CHINATOWN: HEALTH IMPACTS ON LOW-INCOME IMMIGRANT TENANTS (Aug. 2005), *available at* http://www.cpasf.org/sites/default/files/HousingHealthRptFINAL.pdf
[166] *Id*.

[167] PHYLLIS BETTS, BEST PRACTICE NUMBER TEN: BROKEN WINDOWS—STRATEGIES TO STRENGTHEN HOUSING CODE ENFORCEMENT AND APPROACHES TO COMMUNITY-BASED CRIME PREVENTION IN MEMPHIS (Memphis Shelby Crime Commission, Apr. 2001) (finding that while multifamily units account for one third of all housing units in the Binghamton community, only 10% of the code violations in the city system were from multifamily units, despite visual survey showing that at least half of the multifamily units had substantial code violations).

[168] *Id.*

[169] *Id*.

[170] CAROL HICKEY, ENSURING HOUSING QUALITY: PROACTIVE MINIMUM HOUSING CODE INSPECTIONS OF RENTAL PROPERTIES IN NORTH CAROLINA CITIES, Paper submitted for Masters of Public Admin. at UNC Chapel Hill (Apr. 8, 2008).

[171] CITY OF ARLINGTON, CODE COMPLIANCE WEBSITE, at http://arlingtontx.gov/codecompliance/apartments.html.

[172] CITY OF FORT WORTH, RENTAL PROPERTY WEBSITE, at http://fortworthtexas.gov/rentalproperty/

[173] *See* Dallas City Code, §§ 27-45, et al.

[174] Information on Los Angeles's ordinance is available at http://lahd.lacity.org/lahdinternet/CEUSCEP/tabid/395/language/en-US/Default.aspx.

[175] CITY OF PHILADELPHIA, HOUSING INSPECTION LICENSE WEBSITE AND LICENSE APPLICATION, at https://business.phila.gov/Pages/HousingRentalLicense.aspx; https://business.phila.gov/Documents/Licenses/housing_rental.pdf.

[176] CITY OF PLANO, RENTAL REGISTRATION & INSPECTION PROGRAM WEBSITE, at http://www.plano.gov/index.aspx?NID=342

[177] CITY OF RALEIGH, RENTAL DWELLING REGISTRATION WEBSITE, at http://www.raleighnc.gov/home/content/Inspections/Articles/RentalDwellingRegistra.html

[178] CITY OF SEATTLE, RENTAL REGISTRATION & INSPECTION WEBSITE, at http://www.seattle.gov/dpd/codesrules/changestocode/rentalregistrationprogram/whatwhy/.