

# Washington University Journal of Law & Policy

---

Volume 52 *Justice Reform*

---

2016

## **(B)light at the End of the Tunnel? How a City's Need to Fight Vacant and Abandoned Properties Gave Rise to a Law School Clinic Like No Other**

Daniel M. Schaffzin

*University of Memphis Cecil Humphreys School of Law*

Follow this and additional works at: [https://openscholarship.wustl.edu/law\\_journal\\_law\\_policy](https://openscholarship.wustl.edu/law_journal_law_policy)



Part of the [Housing Law Commons](#), [Law and Society Commons](#), and the [Property Law and Real Estate Commons](#)

---

### **Recommended Citation**

Daniel M. Schaffzin, *(B)light at the End of the Tunnel? How a City's Need to Fight Vacant and Abandoned Properties Gave Rise to a Law School Clinic Like No Other*, 52 WASH. U. J. L. & POL'Y 115 (2016), [https://openscholarship.wustl.edu/law\\_journal\\_law\\_policy/vol52/iss1/12](https://openscholarship.wustl.edu/law_journal_law_policy/vol52/iss1/12)

This Article is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Journal of Law & Policy by an authorized administrator of Washington University Open Scholarship. For more information, please contact [digital@wumail.wustl.edu](mailto:digital@wumail.wustl.edu).

*(B)light at the End of the Tunnel?*  
How a City's Need to Fight Vacant and Abandoned  
Properties Gave Rise to a Law School Clinic  
Like No Other

Daniel M. Schaffzin\*

Over the course of the last two decades, intensified by the mortgage foreclosure crisis of the late 2000s, an epidemic of vacant and abandoned properties has inflicted devastation on people, neighborhoods, and cities across the United States. Though surely coincidental, the same time period has seen the emergence of experiential learning coursework, long operating at the periphery of legal education, as a centerpiece of the law school curriculum. In Memphis, the temporal convergence of these two phenomena has acted as a catalyst for the creation of a law school clinical course in which students learn and work under direct faculty supervision to abate the public nuisance presented by neglected properties. This Clinic is distinctive for a number of reasons, not the least of which is its singular client: the City of Memphis.

In this Article, the University of Memphis School of Law's Director of Experiential Learning, one of the two founders and co-directors of the Neighborhood Preservation Clinic asserts the efficacy

---

\* Assistant Professor of Law, Director of Experiential Learning and Co-Director of the Neighborhood Preservation Clinic, University of Memphis Cecil Humphreys School of Law. Thanks are owed to so many for the Clinic that is the subject of this Article. To Steve Barlow, my friend, co-counsel, and co-director, thank you for your faith in me back in August 2014 and for your trusting partnership ever since. To Judge Larry Potter and Referee John Cameron, thank you for allowing the Environmental Court to serve as a classroom each and every Thursday, and for the remarkable role you each play in teaching my Clinic students and me. To Brittany Williams, thank you for working so hard and for being such a wonderful role model to the Clinic students. And to Kermit Lind and Joe Schilling, thank you for the incredible trails you have blazed. Your fingerprints are all over this Article. I would also like to thank Jordan Emily, my former Clinic student, for his stellar research assistance. Lastly, but always most importantly, I send love and endless thanks to my wife, Professor Kate Traylor Schaffzin, and my babies, Elijah and Celia.

of the Clinic's role in training future lawyers and providing zealous legal representation to the City in lawsuits against the owners of blighted properties. The Article first considers the rise and devastating effects of the nationwide vacant and abandoned property epidemic, the statutory authority available in Tennessee to pursue recourse against the owners of such property, and the broader blight-fighting strategy being employed by the City within which the decision to launch the Clinic was made. The Article then examines the Clinic's multi-layered design and articulates the benefits that the Clinic has conferred upon its students, the Law School, and Memphis. The Article concludes that the Neighborhood Preservation Clinic offers a government representation model for law school clinics that stays true to traditional clinical pedagogy while honoring clinical legal education's two-pillared historical mission to effectively prepare students for practice and to work in advancement of social justice and public interest outcomes.

#### INTRODUCTION

Certainly, the terror of a deserted house swells in geometrical rather than arithmetical progression as houses multiply to form a city of stark desolation. The sight of such endless avenues of fishy-eyed vacancy and death, and the thought of such linked infinities of black, brooding compartments given over to cobwebs and memories and the conqueror worm, start up vestigial fears and aversions that not even the stoutest philosophy can disperse.

—H.P. Lovecraft<sup>1</sup>

In line with the first American Bar Association (ABA) standard on the program of legal education, law school clinical training strives above all else to educate students and prepare them for effective, ethical, and professionally responsible legal practice.<sup>2</sup> Employing

---

1.H.P. LOVECRAFT, *THE SHADOW OVER INNSMOUTH* (Visionary Publ'g Co. 1936), <http://www.hplovecraft.com/writings/texts/fiction/soi.aspx>.

2. ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS: 2016–017, No. 301(a) [hereinafter AM. BAR. ASS'N 2016] (“A law school shall maintain a

live-client and live-case models, many law school clinics also satisfy one of the ABA's most recent amendments to its accreditation standards, which now require students to complete six credit hours of experiential learning coursework.<sup>3</sup> In addition to preparing students for practice, most law school clinics seek to instill a sense of public service in young lawyers while also pursuing social justice aims. All of this is typically accomplished with less-than-ideal budgetary and personnel support. While there are countless potential foci and structures for law school clinics, relatively few come to fruition due to resource constraints.

For the past six years, I have served as the Director of Experiential Learning at the University of Memphis Cecil C. Humphreys School of Law. Memphis is a big city that has every kind of court and administrative agency,<sup>4</sup> as well as a dire pro se litigant epidemic<sup>5</sup>

---

rigorous program of legal education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession.”).

3. *Id.* at No. 303(a)(3). The ABA Standards further mandate that

To satisfy this requirement, a course must be primarily experiential in nature and must:

- (i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified in Standard 302;
- (ii) develop the concepts underlying the professional skills being taught; (iii) provide multiple opportunities for performance; and (iv) provide opportunities for self-evaluation.

*Id.*

4. Memphis is one of only a handful of cities with a U.S. Circuit Court of Appeals, a U.S. District Court, a U.S. Bankruptcy Court, a state supreme court, two state appellate courts, and a number of state trial-level courts. 2016 TENNESSEE ATTORNEYS DIRECTORY D-1, D-3–D-4, E-1–E-2, E-16–E-17, E-24–E-25, E-32–E33, E-41 (Angela Pachciarz et al. eds., 2015). Among other administrative agencies, it also is also home to outposts of the Department of Commerce, Department of Homeland Security, Department of Housing and Urban Development, Department of the Treasury, Drug Enforcement Administration, Equal Employment Opportunity Commission, Federal Bureau of Investigation, Federal Deposit Insurance Corporation, National Labor Relations Board, and Social Security Administration. *Id.* at F-2, F-4–F-5, F-7, F-9, F-11.

5. See generally Daniel Connolly, *Federal Court in Memphis Takes Steps to Speed Up “Pro Se” Cases*, COM. APPEAL (Apr. 4, 2015), <http://www.commercialappeal.com/news/government/city/federal-court-in-memphis-takes-steps-to-speed-up-pro-se-cases-ep-10225100-56-324424051.html> (noting that “as of January [2015], pro se cases from prisoners and others accounted for 686 of the 1,685 pending civil law suits or 41%” of the civil lawsuits pending before U.S. District Court for the Western District of Tennessee); see also National Center for Access to Justice, *Self-Representation Access*, JUST. INDEX (2016), <http://justiceindex.org/2016-findings/self-represented-litigants/> (finding that although Tennessee ranks ninth in the United

amplified by some of the worst shortages in civil legal aid assistance in the United States.<sup>6</sup> In my capacity as Director, I am asked to consider what I have come to call “law-students-are-the-answer” proposals for new clinical courses with great frequency.<sup>7</sup> Even when the proposal is well-conceived pedagogically and the need for the underlying services to be provided is demonstrable, it does not provide for the significant funding needed to hire or reallocate the faculty who will design direct, and teach the Clinic while also maintaining supervisory responsibility over students and cases.<sup>8</sup>

In August 2014, Steve Barlow, a part-time Staff Attorney for the Memphis City Attorney’s Office and then-supervisor for the Office’s “anti-blight litigation” externship,<sup>9</sup> approached me about an idea for a

---

States for providing access to its courts, it still ranks among the top thirteen states in terms of self-representation in civil cases) [hereinafter 2016 JUST. INDEX].

6. Press Release, Supreme Court of Tenn., Administrative Office of Courts, *Tennessee Ranks in Top 10 for Providing Access to Courts* (July 25, 2016) (on file with author) (comparing twenty-seven civil legal aid attorneys per ten thousand people in Tennessee to the national average of forty per ten thousand people). According to Memphis Area Legal Services,

the Legal Services Corporation, the primary source of MALS’ support, has declined and never achieved the minimal access benchmark of one attorney for every 5,000 poor people. . . . [S]ince the year 2000, there has been a 31% increase in poverty in MALS’ service area that computes to an estimated one attorney for every 12,000 persons living below the poverty level. Comparatively speaking, there is one attorney for every 360 persons in the general population.

MEM. AREA LEGAL SERVICES, <http://www.malsi.org/faqs/#1452086364163-97bcdfd2-c1fa> (last accessed on Nov. 4, 2016) (responding to the question: “Doesn’t the federal government provide enough funding?”).

7. Law school clinicians and administrators will likely know exactly what I am talking about here. In the last two years alone, I have been asked to vet proposals for in-house clinical courses focused on the following areas of practice: bankruptcy, domestic violence, immigration, and worker’s compensation. These are generally reasonable proposals on the conceptual level, but they almost always begin and end with an expression along the lines of, “This is a win-win for law students and the community. Can you make it happen?”

8. See Margaret M. Barry et al., *Clinical Education for This Millennium: The Third Wave*, 7 CLINICAL L. REV. 1, 18–30 (2000) (discussing the high costs of clinics); Stephen R. Miller, *Field Notes from Starting a Law School Clinic*, 20 CLINICAL L. REV. 137, 143 (2013) (“Starting a new law school clinic is no small feat of resources; time, money, and administrative resources are devoted in abundance.”).

9. Through a for-credit Externship Course that I direct and teach, the Law School has long placed students with the Memphis City Attorney’s Office. See *Externship Program*, U. OF MEM. CECIL C. HUMPHREYS SCH. OF L., <http://www.memphis.edu/law/programs/externships.php> (last accessed Nov. 4, 2016). Following his initial outreach in September 2013, I began placing law student externs with Steve Barlow in his capacity as a part-time City of Memphis

new law school clinic. My instincts told me with reasonable certainty that this proposal would present the same kinds of limitations as the rest.

Even at a time when great expansion for experiential learning<sup>10</sup> has inspired the need for creativity in the means being utilized to address the calls for more,<sup>11</sup> Steve pitched a concept that seemed in stark contrast with both the traditional pedagogy and missions of clinical legal education.<sup>12</sup> In short, he proposed a clinic that would have an “army of students” combatting the problem of “blight” in Memphis. The Clinic’s cases would not address problems of bankruptcy, immigration, or civil rights, but would instead involve taking on the owners of vacant and abandoned properties.<sup>13</sup> The clients would not be low-income individuals or not-for-profit entities, but rather the City of Memphis itself. He was not referring to the

---

Staff Attorney handling the City’s anti-blight litigation. See E-mail from Steve Barlow and Danny Schaffzin re: Anti-Blight Litigation Law Clinic, Sept. 27, 2013 (on file with author).

10. See AM. BAR. ASS’N, *supra* note 2 (setting forth a requirement for students to complete six credit hours of experiential learning); see, e.g., Heather Coleman, *Experiential Learning: A Growing Trend in Legal Education*, DOCKET (June 24, 2015), <http://www.dba.docket.org/young-lawyers/experiential-learning-a-growing-trend-in-legal-education/>. See also Mary Ellen McIntire, *With New National Requirement, Law School Clinics Expect Surge in Applications*, GW HATCHET (Aug. 25, 2014), <http://www.gwhatchet.com/2014/08/25/with-new-national-requirement-law-school-clinics-expect-surge-in-applications/>.

11. See James H. Backman & Cory S. Clements, *Significant but Unheralded Growth of Large Externship Programs*, 28 BYU J. PUB. L. 145, 157–59 (2013); Barry, *supra* note 8, at 29–30; see also Harold J. Krent & Gary S. Laser, *Meeting the Experiential Challenge: A Fee-Generating Law Clinic*, 46 U. TOL. L. REV. 351, 359 (2015) (discussing how a fee-generating law clinic would promote expansion of clinical education); Deborah Maranville et al., *Re-Vision Quest: A Law School Guide to Designing Experiential Courses Involving Real Lawyering*, 56 N.Y.L. SCH. L. REV. 517, 538–40 (2011–12).

12. See *infra* text accompanying note 16, at 182–87.

13. In this Article and in the discourse of blight generally, the terms “vacant” and “abandoned” are often used interchangeably. Although not discussed beyond this footnote, it should be noted that there are differences between vacant properties and abandoned properties. While vacancy tends to refer to a property that is not occupied, abandonment usually connotes a subjective intention on the part of the owner to no longer take any steps to sustain the productive use of the property. See Stephen Whitaker & Thomas J Fitzpatrick IV, *The Impact of Vacant, Tax-Delinquent, and Foreclosed Property on Sales Prices of Neighboring Homes*, at 5, FED. RES. BANK CLEV. (Mar. 2012), <https://www.clevelandfed.org/en/Newsroom%20and%20Events/Publications/Working%20Papers/~media/9DBD4474499A4E3BBC1523271930BACE.ashx> (“Property is abandoned at the point that property owners and inhabitants stop investing in the property with the intent of foregoing their ownership interests.”). See also Sub. H.B. 134 § 2308.2(C)(3), 131st Gen. Assemb. (Ohio 2015–2016) (setting forth criteria for finding of abandonment under a proposed Ohio property foreclosure statute).

inefficient client-teaching model of five or ten cases each semester, but instead, *hundreds*.<sup>14</sup>

His proposal raised many immediate questions that left me skeptical. How would this Clinic prioritize the honing of students' lawyering skills and preparation for legal practice?<sup>15</sup> Who was going to teach and provide direct supervision to the students?<sup>16</sup> In what ways would this Clinic instill in students a commitment to social justice and public interest work?<sup>17</sup> My impulse was to run away from the meeting, screaming 'thanks but no thanks.'

---

14. See Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 *FORDHAM L. REV.* 997, 1110–11 (2004) (citing Stephen F. Befort, *Musings on a Clinic Report: A Selective Agenda for Clinic Legal Education in the 1990s*, 75 *MINN. L. REV.* 619 (1991)) ("In many contemporary law school clinical programs students are representing fewer clients, and spending more time engaging in forms of clinical pedagogy that teach them about the representation of clients."); Adrienne J. Lockie, *Encouraging Reflection and Involving Students in the Decision to Begin Representation*, 16 *CLINICAL L. REV.* 357, 365–66 (2010) ("[C]lient and case selection varies based upon the pedagogical goals of the instructors . . ."); see also Nina W. Tarr, *Ethics, Internal Law School Clinics, and Training the Next Generation of Poverty Lawyers*, 35 *WM. MITCHELL. L. REV.* 1011, 1026–32 (2009) (discussing case selection for law school clinics).

15. Ross, *infra* note 17, at 780 (citations omitted) ("[Many] believe that the most important goal of clinical education is to encourage law students to develop the skills and values necessary to become competent, ethical, reflective practitioners."); Srikantiah, *infra* note 17; cf. Dubin, *infra* note 17, at 1462 (citing Panel Discussion, *Clinical Legal Education: Reflections on the Past Fifteen Years and Aspirations for the Future*, 36 *CATH. U. L. REV.* 337, 342 (1987)) (referring to the rise of "skills acquisition" as goal of clinical education despite clinic's origins in social justice).

16. See generally Phillip A. Schrag, *Constructing a Clinic*, 3 *CLINICAL L. REV.* 175 (1996) (overviewing the many questions and consideration, pedagogical and otherwise, at play when designing a Clinic course).

17. Meredith J. Ross, *A "Systems" Approach to Clinical Legal Education*, 13 *CLINICAL L. REV.* 779, 780 (2007) (quoting Kimberly E. O'Leary, *Clinical Law Offices and Local Social Justice Strategies: Case Selection and Quality Assessment as an Integral Part of the Social Justice Agenda of Clinics*, 11 *CLINICAL L. REV.* 287 (2005)) ("[L]aw school clinics 'developed historically as part of an explicit social justice agenda[.]' and many clinicians continue to defend this as a legitimate goal of clinical legal education."); Jayashri Srikantiah & Jennifer L. Koh, *Teaching Individual Representation Alongside Institutional Advocacy: Pedagogical Implications of a Combined Advocacy Clinic*, 16 *CLINICAL L. REV.* 451, 452 (2010) ("[C]linical legal education's bedrock goals [are] simultaneously effecting social justice and training law students in fundamental lawyering skills."). See Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 *SMU L. REV.* 1461 (1998) (discussing social justice as starting point of law school clinics and its continued role as a primary aim for clinics); Stephen Wizner, *Is Social Justice Still Relevant?*, 32 *B.C. J.L. & SOC. JUST.* 345 (2012) (tracing the origins of the legal clinic in the 1960s and 1970s movements for social justice and discussing the relevance of the social justice mission to clinics today).

Part I.A of the Article explains why I chose not to flee, and how my decision evolved into the launch of a new in-house law school clinical course offering: The Neighborhood Preservation Clinic—co-directed, taught, and supervised by Steve Barlow and me just five months later. It also reconciles the questions raised above, and demonstrates how a “blight” clinic working on behalf of a municipal government client can provide zealous representation without compromising its concurrent obligation to impart pedagogy-rich, skills-focused training to its students.

Parts I.B and I.C explain the context in which the Clinic was introduced, commencing with an overview of the rise and distressing impact of the blighted property epidemic in Memphis. While the compelling need to address both cause and effect alone provided justification for the new clinical course, consideration is also given to how both existing legislation aimed at addressing neglected properties and a devoted, issue-savvy Environmental Court did as well. Part II examines the solution offered in the form of the University of Memphis Neighborhood Preservation Clinic—the first of its kind in the United States. Part III examines the multi-faceted training the Neighborhood Preservation Clinic provides to students, and the corresponding benefits that the Clinic has bestowed upon the Law School and Memphis. Ultimately, the Article concludes by positing that the Neighborhood Preservation Clinic exemplifies a government representation model that stays true to traditional clinical pedagogy while honoring clinical legal education’s two-pillared historical mission to effectively prepare students for practice and to work in advancement of social justice and public interest outcomes.

#### I. QUESTIONS ABOUND: WHY BLIGHT? WHY MEMPHIS? WHY A LAW SCHOOL CLINIC?

The proposal for the Neighborhood Preservation Clinic centered on a need to fight the scourge of blighted properties in Memphis. To assess it, I sought to understand what blight was, why it was a problem big enough that an exclusively-focused law school clinic was needed to solve it. Further, assuming that it was a challenge of sufficient magnitude, I needed to grasp how a law school clinic representing Memphis could be a significant part of the solution. I



have lived most of my life in urban centers, and worked for much of the last decade with low-income clients in depressed areas. Vacant lots and distressed structures were symbols of trouble, but I was uncertain about how much they actually contributed to it. Was there a case to be made that working to tackle blighted properties is really as important or impactful as working to address the problems of individual clients, or engaging in other forms of systemic advocacy?

It turns out that blighted properties exact destruction in myriad ways, many of which are not outwardly apparent. In Memphis, particularly in the form of vacant and abandoned properties,<sup>18</sup> blight has wreaked particularly severe havoc. The problem in Memphis had become so out of hand that in 2007 the Tennessee legislature amended an existing statute to broaden its standing and establish a new cause of action against the owners of such properties.<sup>19</sup> Seizing on the new law, the City soon began an aggressive strategy of filing lawsuits in the local Environmental Court, one of the most well-known in the country. All of these factors provided the context underscoring the proposal for what would ultimately become the Neighborhood Preservation Clinic.

#### *A. Defining Blight and Assessing Its Impact*

I long thought of blight as a “know-it-when-you-see-it” phenomenon, stereotypically characterized by a worn-down building covered with graffiti or a vacant lot strewn with trash.<sup>20</sup> Upon

---

18. Toby Sells, *Blight Fighters Go at Memphis Decay from All Angles*, NEXT CITY (Jan. 25, 2016), <https://nextcity.org/daily/entry/blight-memphis-neighborhood-preservation-inc-non-profit>. In describing the challenge of blighted properties in Memphis, Sells explains:

Blight takes all forms in Memphis. City code defines blight as “property which is unsecured, left open to the elements, and without apparent and latent supervision by the owner.” That definition also offers that blighted properties are usually in disrepair, usually occupied by vagrants, are littered, and have broken windows, and that the value of property “would be greater if the building were removed.” That is, this place would be better off without you.

*Id.*

19. See H.B. 1995, 105th Gen. Assemb. (Tenn. 2007) (amending the Tennessee Neighborhood Preservation Act).

20. Kermit Lind & Joe Schilling, *Abating Neighborhood Blight with Collaborative Policy Networks—Where Have We Been? Where Are We Going?*, 46 U. MEM. L. REV. 803, 812 (2016) (quoting *Jacobellis v. Ohio*, 378 U.S. 184, 196 (1964)); see also Debbie Blankenship, *Expert:*

investigation, however, I discovered that “blight” is a term with controversial roots and a complex history.<sup>21</sup> Moreover, it is one that has defied a consensus definition despite its entry into the lexicon of American history more than a century ago.<sup>22</sup>

Amidst early Twentieth Century dialogue concerning the decline of American’s industrialized cities, blight emerged as a term to describe the public health risk posed by the unclean housing conditions and physical deterioration of communities that preceded transition into full-blown “slum” conditions.<sup>23</sup> Reformers called for wholesale demolition of affected neighborhoods and the implementation of more stringent zoning restrictions to ensure against its virus-like spread.<sup>24</sup> Blight, then, became the justification

---

*Blight Has No Clear Definition*, TELEGRAPH (Sept. 21, 2014, 12:00 AM), <http://www.macon.com/news/special-reports/house-next-door/article30144030.html> (noting Georgia Department of Community Affairs’ description of blight as “[y]ou know it when you see it.”).

21. Martin E. Gold & Lynne B. Sagalyn, *The Use and Abuse of Blight in Eminent Domain*, 38 FORDHAM URB. L.J. 1119, 1121 (2011) (citations omitted) (“The idea was unconventional, and controversial, from the start. As a condition to be ameliorated by concerted government intervention, ‘blight’ had to be invented.”). See also Colin Gordon, *Blighting the Way: Urban Renewal, Economic Development, and the Elusive Definition of Blight*, 31 FORDHAM URB. L.J. 305 (2004).

22. Lind & Schilling, *supra* note 20, at 806 (noting the “inherent difficulties in the definition and uses of the term ‘blight’” and that “blight . . . is a term encumbered with a history of associations that have diffused and diminished its clarity”); Blankenship, *supra* note 20 (quoting Emory Professor Frank Alexander as cautioning, “Be very careful with the word ‘blighted,’ because there is no common definition. . . . I discovered there was [sic] 78 different legal definitions of blight, and none of them ultimately made any sense.”).

23. Gold & Sagalyn, *supra* note 21, at 1121 (“The notion that certain physical, social, and economic conditions short of being a slum, though not yet a slum, only on the way to likely becoming a slum, presented a danger for cities and a threat to public health, safety, and general welfare evolved with time.”); ROBINSON & COLE, URBAN BLIGHT: AN ANALYSIS OF STATE BLIGHT STATUTES AND THEIR IMPLICATIONS FOR EMINENT DOMAIN REFORM 2–4 (2007), <http://www.ocpa-oh.org/Foreclosures%20and%20Crime/Urban%20Blight%20-%20An%20Analysis.pdf>; see also Wendell E. Pritchett, *The “Public Menace” of Blight: Urban Renewal and the Private Uses of Eminent Domain*, 21 YALE L. & POL’Y REV. 1, 16 (2003) (quoting MABEL WALKER, URBAN BLIGHT AND SLUMS 3 (1936)) (“[A] slum was a district that had an excess of buildings that ‘either because of dilapidation, obsolescence, overcrowding, poor arrangement or design, lack of ventilation, light or sanitary facilities, or a combination of these factors, are detrimental to the safety, health, morals and comfort of the inhabitants thereof.’”).

24. VACANT PROPERTIES RESEARCH NETWORK, CHARTING THE MULTIPLE MEANINGS OF BLIGHT: FINAL REPORT 10 (2010), [https://www.kab.org/sites/default/files/Charting\\_the\\_Multiple\\_Meanings\\_of\\_Blight\\_FINAL\\_REPORT.pdf](https://www.kab.org/sites/default/files/Charting_the_Multiple_Meanings_of_Blight_FINAL_REPORT.pdf) [hereinafter VPRN REPORT] (“Housing reformers who were concerned with public health used blight to describe the threat of places where residents had poor sanitation conditions. The fear for these reformers was that blight, like any disease, could grow and spread across cities.”).

for the facially neutral “urban renewal” projects that resulted in the relocation of the poor, primarily ethnic and racial minority residents, who lived in them.<sup>25</sup> Indeed, scholars pinpoint early blight discourse as a principal impetus for many forms of segregation that remain entrenched in American society today.<sup>26</sup>

Over time, the term evolved to describe the deterioration of neighborhoods hard hit by the departure of commercial interests, disproportionately high levels of joblessness, and dilapidated housing stock.<sup>27</sup> With the promotion of economic wellness supplanting avoidance of public health risk as the focus of blight policy, proponents defended the clearance of depressed neighborhoods as necessary to entice new investors and redevelopment initiatives.<sup>28</sup> While purportedly strategic in nature, however, urban renewal initiatives remained concentrated on and continued to result in the displacement of communities largely comprised of racial minorities.<sup>29</sup>

Today, blight is most narrowly understood as the physical manifestations of a declining property or grouping of properties: yards overrun by junk, weeds, or high grass; boarded-up and broken windows or doors; vacant homes or lots; abandoned and decaying structures.<sup>30</sup> Rather than limited to a set of physical factors, some view blight more systemically—as a point on the continuum of decay at which “land (or property on land) is so damaged that it is incapable

---

25. *Id.* at 10–11 (“[A] blighted neighborhood was a leg of a city to amputate, not an injury that could be healed and nursed back to health. . . . [T]he solution, . . . had to be aggressive—slum clearances to eradicate blight and adoptions of citywide zoning codes to prevent its return.”).

26. *See* Pritchett, *supra* note 23, at 6 (“While it purportedly assessed the state of urban infrastructure, blight was often used to describe the negative impact of certain residents on city neighborhoods. This “scientific” method of understanding urban decline was used to justify the removal of blacks and other minorities from certain parts of the city.”); Lind & Schilling, *supra* note 20, at 810 (“Seeing people as blight has been at the root of residential, neighborhood and school segregation by custom and law for much of this country’s existence. Using blight in discriminatory urban renewal and suburban development infused it deep in our societal institutions and habits.”).

27. VPRN REPORT, *supra* note 24, at 10.

28. *Id.*

29. *Id.*

30. *See* R.C. Weaver, *Re-Framing the Urban Blight Problem with Trans-Disciplinary Insights from Ecological Economics*, 90 *ECOLOGICAL ECON.* 168, 169 (2013).

of beneficial use without outside intervention.”<sup>31</sup> Still others point to blight as a reactive concept given meaning by legal and policy underpinnings of the statutes and court decisions that invoke it:

Blight still plays a big role in the vocabulary of public policy and statutory law. Evidence of this is provided in the exhaustive survey of the meaning of blight found in statutory and case law by Hudson Hayes Luce published in 2000. Luce poses twelve categories of blighting criteria: (1) Structural Defects; (2) Health Hazards; (3) Faulty or Obsolescent Planning; (4) Taxation Issues; (5) Lack of Necessary Amenities, and Utilities; (6) Condition of Title; (7) Character of Neighborhood; (8) Blighted Open Areas; (9) Declared Disaster Areas; (10) Uneconomical Use of Land; (11) Vacancies; and (12) Physical and Geological Factors. He found that language common to all the statutes surveyed include phrases such as: “constitutes an economic and social liability,” “conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime,” and “detrimental (or a menace) to the public safety, welfare, or morals.” Here we can see blighting criteria in a legal and public policy context applied to factors not apparent to casual observation: namely, invisible health hazards, bad planning, taxation, and condition of title.<sup>32</sup>

Some of the harshest critics refuse to assign blight any definition at all, pointing to the historical pretext<sup>33</sup> or decrying “blight” as merely

---

31. VPRN REPORT, *supra* note 24, at 11 (citations omitted); Morgan B. Gilreath, Jr., *A Model for Quantitatively Defining Urban Blight by Using Assessment Data*, 11.8 FAIR AND EQUITABLE 3, 4 (2013) (“Blight is the cumulative effect on buildings of time without care or, perhaps better put, time without TLC (tender loving care)”); Hudson H. Luce, *The Meaning of Blight: A Survey of Statutory and Case Law*, 35 REAL PROP., PROB. & TR. J. 389, 392–93 (2000) (“A blighted area is an area, usually in a city, that is in transition from a state of relative civic health to the state of being a slum, a breeding ground for crime, disease, and unhealthful living conditions.”).

32. Lind & Schilling, *supra* note 20, at 811 (citing Luce, *supra* note 31, at 395–96).

33. VPRN REPORT, *supra* note 24, at 13 (citations omitted). The Report recommends the use of the term “blighted properties” rather than “blight,” where “[b]light as a noun can shift attention away from the actions and actors that helped to create unfavorable conditions in cities. *Id.* The phrase “blighted properties” instead brings attention to an active process of blighting or neglecting and offers a more accurate representation of urban landscapes. The latter phrase also

a policy mechanism through which governments can validate the funding or subsidy of private economic development simply by declaring properties to be “blighted.”<sup>34</sup>

As the debate concerning its definition remains unsettled, there is growing agreement concerning the systematic mayhem that blighted properties inflict on their communities.<sup>35</sup> In its 2015 report, *Charting the Multiple Meanings of Blight*, the Vacant Property Research Network framed blight in terms of its economic, social, environmental, and legal/policy aspects.<sup>36</sup> Indeed, it is now well understood that neglected and vacant properties exact their toll through severely diminished tax revenue,<sup>37</sup> eroded property values,<sup>38</sup> and lower rates of employment.<sup>39</sup> Further, blighted property

---

helps to avoid slippage from discussions about places to discussions about people. There is a long history of blight referring to communities of color.” *Id.*

34. See Gordon, *supra* note 21, at 307 (“Clearly ‘blight’ has lost any substantive meaning as either a description of urban conditions or a target for public policy. Blight is less an objective condition than it is a legal pretext for various forms of commercial tax abatement that . . . divert money from schools and county-funded social services.”).

35. See *Vacant and Abandoned Properties: Turning Liabilities into Assets*, U.S. DEP’T OF HOUS. & URBAN DEV.: EVIDENCE MATTER (2014), <https://www.huduser.gov/portal/periodicals/em/winter14/highlight1.html> [hereinafter HUD Article] (“Vacant and abandoned properties have negative spillover effects that impact neighboring properties and, when concentrated, entire communities and even cities. Research links foreclosed, vacant, and abandoned properties with reduced property values, increased crime, increased risk to public health and welfare, and increased costs for municipal governments.”).

36. VPRN REPORT, *supra* note 24, at 13–36. In summarizing its findings, which resulted from a review of “300 academic articles as well as special policy and practitioner reports devoted to the concept of blight,” the VPRN specified a number of examples of “community impacts that blighted properties generate, particularly on the value of adjacent properties.” VACANT PROPERTIES RESEARCH NETWORK, CHARTING THE MULTIPLE MEANINGS OF BLIGHT: EXECUTIVE SUMMARY 3 (2015), [https://www.kab.org/sites/default/files/Charting\\_the\\_Multiple\\_Meanings\\_of\\_Blight\\_Executive\\_Summary\\_FINAL.pdf](https://www.kab.org/sites/default/files/Charting_the_Multiple_Meanings_of_Blight_Executive_Summary_FINAL.pdf) [hereinafter VPRN EXECUTIVE SUMMARY].

37. VPRN REPORT, *supra* note 24, at 13. See also HUD Article, *supra* note 35 (citations omitted) (“Although neglected upkeep may be the most visible sign of vacancy, ‘property tax delinquency . . . , is the most significant common denominator among vacant and abandoned properties.’”).

38. VPRN REPORT, *supra* note 24, at 13–14; see also NATIONAL VACANT PROPERTIES CAMPAIGN, VACANT PROPERTIES: THE TRUE COST TO COMMUNITIES 9–10 (2005), <https://www.smartgrowthamerica.org/app/legacy/documents/true-costs.pdf>.

39. See Raven Molloy, *Long-term Vacancy in the United States* 17–19 (Fed. Reserve Bd., Working Paper No. 2014-73, 2014), <http://poseidon01.ssrn.com/delivery.php?ID=594113070013114118002124092116025078002069067087006050093067002030002077103115114093098031011119001029044109076117116082085025055057028032013000028127121115085066>

conditions invite higher rates of criminal activity, fires, graffiti, and illegal dumping.<sup>40</sup> Blight has also been associated with insect-related illness and exacerbated allergies among community members.<sup>41</sup> Where blighted properties have been used for industrial purposes, they linger as hosts to unmanaged environmental hazards.<sup>42</sup>

Particularly as they impact children, the damaging emotional and psychological effects associated with living in or around blighted conditions are garnering increased attention.<sup>43</sup> Gauging heart rate and other indicators of participants walking by vacant lots before and after greening remediation treatments, researchers reported in 2015 that abating neighborhood blight may reduce stress and improve health.<sup>44</sup> A 2016 Case Western University study found that children who lived for longer periods in properties that were tax delinquent, in foreclosure, or owned by a speculator were less prepared for kindergarten.<sup>45</sup> Arguing that the most extremely blighted neighborhoods threaten the physical and emotional wellness of

---

014058028064069112096070119021096124099092097109125099114027006007001073125018027081065&EXT=pdf.

40. VPRN REPORT, *supra* note 24, at 16–21; *see also* HUD Article, *supra* note 35.

41. VPRN REPORT, *supra* note 24, at 20–21.

42. *Id.* at 20–24.

43. *See* DETROIT BLIGHT REMOVAL TASK FORCE, DETROIT BLIGHT REMOVAL TASK FORCE PLAN: WHAT DO WE KNOW?, <https://s3.amazonaws.com/detroit-blight-taskforce/CHAPTER+03.pdf> (“Blight is a drag on community energy. It is a siphon on city vitality. . . . Blight can be a source of despair or cynicism for people who have witnessed the decline of a particular building or neighborhood over time.”); Janet Romaker, *Blight Scars Toledo as Residents, Officials Decry Mounting Mess*, BLADE (June 15, 2014, 6:16 PM), <http://www.toledoblade.com/local/2014/06/15/Blight-scars-city.html> (“It is about what you see. And what you can’t. Despair lives here, not as an overnight guest but as permanent resident. The impact, and the cost, goes well beyond bricks and mortar. This crisis is about people. Blemishes scar the face of the community—emotionally, physically, socially, economically.”).

44. Eugenia C. South et al., *Neighborhood Blight, Stress, and Health: A Walking Trial of Urban Greening and Ambulatory Heart Rate*, 105 AM. J. PUB. HEALTH 909, 909 (2015).

45. Alexia F. Campbell, *How a House can Shape a Child’s Future*, ATLANTIC (June 29, 2016), <https://www.theatlantic.com/business/archive/2016/06/how-a-house-can-shape-a-childs-future/489242/>. Summarizing the study’s findings, Campbell explained that

Children who fared the worst were those who had spent the most time in neglected houses and neighborhoods and, perhaps relatedly, also who had tested positive for lead poisoning. Researchers estimated that these children’s scores were 15 percent lower on literacy tests than those living in the best conditions. Poor housing conditions were also linked to higher rates of child abuse and familial instability, which are known to hurt kindergarten performance.

*Id.*

children in a manner worse than the average child protection case, Professor James Dwyer has gone as far as to contend that the government should require the relocation of children from those most dangerous neighborhoods, even when their parents have and wish to retain custody.<sup>46</sup>

In his essay, *Perspectives on Abandoned Houses in a Time of Dystopia*, Professor Kermit Lind reminds us that blight, regardless of its definitions, is about people and not conditions.<sup>47</sup> Professor Lind considers the various viewpoints held by the broad cross-section of persons and groups tied to the cause or effect of blight—he includes homeowners, investors, neighbors, debt collectors, various municipal and regulatory agencies, courts, taxpayers, speculators, and criminals—and astutely notes that “the[ir] conflicting reactions perpetuate the crisis of blight for individual residents and their communities.”<sup>48</sup> He concludes that the solutions for management of abandoned properties “must be based in local communities and tailored to local conditions.”<sup>49</sup>

### *B. The Blight Epidemic in Memphis*

Among its many causes, blight is understood to be a natural outgrowth of poverty and the movement of the population away from city centers.<sup>50</sup> At the point in time I was considering the new clinic proposal in 2014, these factors, exacerbated by the mortgage foreclosure crisis that had peaked less than a decade earlier, had

---

46. James G. Dwyer, *No Place for Children: Addressing Urban Blight and its Impact on Children Through Child Protection Law, Domestic Relations Law, and “Adult-Only” Residential Zoning*, 62 ALA. L. REV. 887, 894 (2011) (“Whatever the suitability of blighted neighborhoods for habitation by adults and whatever the state’s obligation to adults now living in such places, the state should not tolerate children living in them.”).

47. Kermit J. Lind, *Perspectives on Abandoned Houses in a Time of Dystopia*, 29:2 PROB. & PROP. 52 (2015), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2583829](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2583829).

48. *Id.*

49. *Id.*

50. Patrick Gunton, *Detroit’s Vacant Property Dilemma: The Illusory Power of Demolition Statutes in a Post “Great Recession” World*, 59 WAYNE L. REV. 119, 120 (2013) (“Inextricably linked with the population decline and potential relocation to ‘healthy’ areas is the ubiquitous problem of blight and vacant property.”); Lind & Schilling, *supra* note 20, at 804 (noting historical discussion of blight as both “cause” and effect of “poverty, crime, poor public health, educational deficits, and other personal or systemic distress.”).

combined to make Memphis one of America's most fertile breeding grounds for vacant and neglected properties.

In cities like Cleveland and Detroit, two of the most high-profile examples of urban decline,<sup>51</sup> massive population losses have given rise to overwhelming supplies of vacant and abandoned properties.<sup>52</sup> By contrast, Memphis has actually experienced modest gains in population since 1970.<sup>53</sup> Over the same period, however, the city's geographic area has grown through annexation at a much larger rate—estimates range between 35% and 55%.<sup>54</sup> The result has been a gradual hollowing of the City's core neighborhoods as people and wealth have moved towards and beyond its physical periphery.<sup>55</sup>

While the geographic distribution of its population has changed, Memphis's status as one of America's most poverty-stricken cities has not.<sup>56</sup> Memphis has long been home to extremely high rates of

---

51. Joe Schilling, *Lessons from Memphis's Collaborative Campaign Against Blight*, URBAN INST. (Apr. 29, 2016), <http://www.urban.org/urban-wire/lessons-memphis-collaborative-campaign-against-blight> (citing *Who Lives in Legacy Cities?*, LEGACY CITY DESIGN, <http://www.legacycitydesign.org/cities#-population-3>) (noting that Cleveland and Detroit each lost more than 50% of their populations from peak levels in 1960–1970 to 2010).

52. *Id.* (citing recent findings of “12,000 vacant and abandoned structures in Cleveland[,]” with “50 percent in need of demolition[,]” and “80,000 derelict structures and vacant lots in Detroit, with 40,000 in need of demolition”) (internal citations omitted).

53. *Id.*

54. See Jimmie Covington, *Memphis Exodus Continues; Hispanics Produce County Gain*, SMART CITY MEMPHIS (May 19, 2014, 12:01 AM), <http://www.smartcitymemphis.com/2014/05/memphis-exodus-continues-hispanics-produce-county-population-gain/> (noting that “[h]istorical data reflect that people have been steadily moving out of the city since 1960. Population gains since that time have been the result of annexations rather than any increase in residents within city limits.”).

55. See Jimmie Covington, *Getting Serious About Population Loss*, SMART CITY MEMPHIS (Sept. 21, 2015, 2:00 PM), <http://www.smartcitymemphis.com/2011/09/getting-serious-about-population-loss/>. See, e.g., Marc Perrusquia, *Population Loss: “We created disposable communities”*, COMM. APPEAL (Apr. 17, 2015), <http://archive.commercialappeal.com/news/investigations/population-loss-we-created-disposable-communities-ep-1011070260-326674201.html> (offering example of “out-migration” in Memphis' Hyde Park neighborhood, which saw its population drop by more than half and its median income drop by one-third between 1970 and 2010).

56. Bruce Kennedy, *America's 11 Poorest Cities*, CBS NEWS, (Feb. 18, 2015, 5:30 AM), <http://www.cbsnews.com/media/americas-11-poorest-cities/9/> (identifying Memphis as the country's fourth poorest city and noting “[o]ne of the worst unemployment rates for a major American city—along with a shrinking tax base, urban blight and a high violent crime rate—all attest to Memphis' economic problems”).



foreclosure, unemployment, and bankruptcy.<sup>57</sup> It has also ranked historically as one of the nation's poorest large metropolitan areas.<sup>58</sup> The Distressed Communities Index, which considers markers such as median income, poverty rates, housing vacancy, high school graduation percentages, and unemployment, assessed Memphis as the ninth-most distressed city in the United States in 2016.<sup>59</sup>

Although sprawl and lingering economic struggle had long ago set into motion the wheels of urban decline,<sup>60</sup> the City's problem of vacant and neglected properties reached epidemic proportion with the onset of the housing foreclosure crisis of the late 2000s.<sup>61</sup> In Memphis, as in many places, lenders big and small lured questionably qualified borrowers into risky subprime mortgage loans characterized by deceptively low introductory interest rates.<sup>62</sup> Statistics suggest that banks targeted vulnerable minority communities,<sup>63</sup> but when the predatory schemes were finally exposed and homeowners found themselves financially unable to retain

---

57. See Corky Neale, *Subprime Loans and Bankruptcy: The Memphis Experience Post-BAPCPA*, 28 AM. BANKR. INST. J. 50, 51 (2009) (detailing Memphis's relatively high rate of foreclosures among Top 100 metro areas in 2006 and 2007).

58. See generally Gail Schmunk Murray, *Taming the War on Poverty: Memphis as a Case Study*, 43 J. URB. HIST. 70 (2015), <http://juh.sagepub.com/content/early/2015/04/04/0096144215574696.full.pdf+html> (discussing several decades of Memphis's struggle with poverty).

59. Schilling, *supra* note 51 (citing Economic Innovation Group, *U.S. Cities Ranked by the Distressed Communities Index*, ECON. INNOVATION GROUP (Feb. 2016), <http://eig.org/dci/infographics#us-cities-ranked-by-the-dci>).

60. See generally Jacqueline Marino, *We Do Bankruptcy Right*, MEM. FLYER (Dec. 22, 1997), [http://www.weeklywire.com/ww/12-22-97/memphis\\_cvr.html](http://www.weeklywire.com/ww/12-22-97/memphis_cvr.html) (detailing Memphis' emergence as "the Bankruptcy Capital of America" despite the economic boom of the late 1990s).

61. See generally Steve Denning, *Lest We Forget: Why We Had a Financial Crisis*, FORBES (Nov. 22, 2011, 11:28 AM), <http://www.forbes.com/sites/stevedenning/2011/11/22/5086/#1b96ad5d5b56> (discussing the causes of the 2008 financial crisis).

62. Eric Smith, *Roulette: How the National Foreclosure Crisis is Playing Out Locally – Where it Stops, Nobody Knows*, MEM. NEWS (Sept. 3–9, 2008), <http://www.chandlerreports.com/Site/Docs/ForeclosureUpdate-TheMemphisNews3.pdf> (describing the impact of the housing and foreclosure crisis of the late 2000s on Memphis).

63. Michael Powell, *Blacks in Memphis Loses Decades of Economic Gains*, N.Y. TIMES (May 30, 2010), [http://www.nytimes.com/2010/05/31/business/economy/31memphis.html?\\_r=0](http://www.nytimes.com/2010/05/31/business/economy/31memphis.html?_r=0) (detailing the City of Memphis's lawsuit against Wells Fargo, which asserted that that bank and others "singled out blacks in Memphis to sell them risky high-cost mortgages and consumer loans[]" and "that the bank's foreclosure rate in predominantly black neighborhoods was nearly seven times that of the foreclosure rate in predominantly white neighborhoods.").

ownership, banks responded with foreclosure actions that affected communities across the City's socioeconomic and geographic landscape.<sup>64</sup> In 2008, the peak year of the crisis, lenders initiated foreclosure proceedings on more than 15,000 homes in the Memphis metropolitan area.<sup>65</sup>

Even as the housing market began to improve, significant segments of the homeowner population remained burdened by the crisis's lingering effects. By 2015, an estimated third of the homes owned in Memphis were worth less than the money owed on the loans borrowed to pay for them.<sup>66</sup> Even if banks decided not to follow through on foreclosure proceedings or simply never initiated them, many owners felt they had no other choice but to abandon their homes.<sup>67</sup> Other owners have been unable to invest the resources necessary to keep their properties from falling into a neglected state.<sup>68</sup> When banks have foreclosed on properties, many have held onto them, unable to resell them and disinclined to invest the funds necessary to maintain them at even the most basic level, much less

---

64. Smith, *supra* note 62 Noting the heightened frequency of foreclosures in the Memphis suburbs, Smith explained that "foreclosure's reach knows no bounds, no race, no limit on home value, no restriction on loan product. Its reputation as being constrained to only the poorest parts of town dissipated long ago . . ."). *Id.*

65. TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, DEALING WITH BLIGHT: IMPEDIMENTS CAUSED BY FORECLOSURE 5 (2015) <https://www.tn.gov/assets/entities/tacir/attachments/2015BlightandForeclosure.pdf> [hereinafter DEALING WITH BLIGHT].

66. *Id.* at 1.

67. See Bob Ivry, *Dying Memphis Neighborhood Foretells Next U.S. Crisis: Mortgages*, BLOOMBERG (Mar. 20, 2014, 11:00 PM), <http://www.bloomberg.com/news/articles/2014-03-21/dying-memphis-neighborhood-foretells-next-u-s-crisis-mortgages> ("She hadn't lived there for more than a year, but she got the tax bill, too. Her lender, a division of JPMorgan Chase & Co. called EMC Mortgage, never took ownership. The house was technically still hers."). See generally Andrea Clark, *Amidst the Walking Dead: Judicial and Nonjudicial Approaches for Eradicating Zombie Mortgages*, 65 EMORY L.J. 795 (2016) (describing and proposing solutions for the "zombie properties" that result when owners abandon properties but retain ownership when foreclosure proceedings are commenced but not finalized). Tennessee, like many southern states, is a non-judicial foreclosure state in which a foreclosure can be started and finished in a short period of time. See also DEALING WITH BLIGHT, *supra* note 65, at 5 (noting that foreclosure in Tennessee averaged less than seven months in the third quarter of 2013, well under the national average of one and one half years).

68. Josh Whitehead, Tommy Pacello & Steve Barlow, *Regulatory Created Blight in a Legacy City: What Is It and What Can We Do About It?*, 46 U. MEM. L. REV. 857, 864 (2016) ("Sometimes genuine economic hardship is the only reason for the physical deterioration and lack of maintenance of a property. Owners in these cases have not abandoned their real estate—they simply do not have the means to maintain it.").

restore them to habitable or more attractive conditions.<sup>69</sup> Banks that have transferred seized properties commonly have done so in bulk to absentee or out-of-town owners with no realistic ability or incentive to see through proper redevelopment efforts.<sup>70</sup>

In the aftermath of the foreclosure crisis, Memphis remains saddled with thousands of vacant and distressed homes throughout the city.<sup>71</sup> A city-wide survey of nearly 200,000 residential properties conducted between 2008 and 2010 found that approximately 40,000 parcels—a rate of 22%—were blighted.<sup>72</sup> Today, nearly ten years removed from the crisis' peak, an estimated 13,000 vacant housing units and 53,000 vacant lots linger as blighted properties threatening the stability of Memphis and its citizens.<sup>73</sup>

The remarkable damage that blighted properties continue to inflict on Memphis is calculable in some ways and immeasurable in others. Estimates indicate that the City of Memphis and Shelby County, in which the City sits, have lost millions of dollars in property tax revenue otherwise owed by the owners of vacant and abandoned

---

69. Kate Berry, AM. BANKER, *Banks Halting Foreclosures to Avoid Upkeep* (Apr. 23, 2013), [http://www.americanbanker.com/issues/178\\_78/banks-halting-foreclosures-to-avoid-upkeep-1058558-1.html](http://www.americanbanker.com/issues/178_78/banks-halting-foreclosures-to-avoid-upkeep-1058558-1.html).

70. DEALING WITH BLIGHT, *supra* note 65, at 5 (“If owners are not living on the property, they may not be immediately aware of maintenance issues or vandalism. Out-of-state banks and investors, that may not be present to ensure that the property is well kept, own many of Tennessee’s foreclosed homes.”). *See also* Sarah Treuhart, Kalima Rose & Karen Black, *When Investors Buy Up the Neighborhood: Preventing Investor Ownership from Causing Neighborhood Decline*, POLICYLINK (Apr. 2010), <https://www.hudexchange.info/resources/documents/WhenInvestorsBuyUpTheNeighborhood.pdf> (noting the “additional threat” posed by “unscrupulous absentee . . . investors who have seen a business opportunity in the foreclosure crisis and are rapidly buying up foreclosed properties to sell or rent out for a profit.”).

71. Smith, *supra* note 62.

72. *See* City of Memphis, *How Do We Protect Our Neighborhoods Against Decline?*, MEMFACTS, <http://memfacts.org/neighborhoods/how-do-we-protect-our-neighborhood-against-decline/blight> (last accessed on Nov. 5, 2016).

73. *See* Neighborhood Preservation, Inc., *Our Story*, MEM. BLIGHT ELIMINATION SUMMIT, <http://www.memphisfightsblight.com/#our-crisis> (last visited Sept. 11, 2016); *see also* Ruth McCambridge, *What’s the Prescription for the Blight Contagion in Memphis? A New Nonprofit?*, NONPROFIT Q. (Jan. 26, 2016), <https://nonprofitquarterly.org/2016/01/26/whats-the-prescription-for-the-blight-contagion-in-memphis-a-new-nonprofit> (noting that “[w]ithin the Memphis [C]ity [L]imits, there are more than 53,000 vacant properties, and since vacancies are the leading cause of blight, the city is plagued by the problem.”).

properties.<sup>74</sup> And although there is not yet local data available, national statistics suggest that vacant properties have caused declines in the average value of homes across Memphis, with certain neighborhoods suffering catastrophic losses in market worth.<sup>75</sup>

In Memphis, vacant properties have repeatedly played host to crimes ranging from homicide,<sup>76</sup> rape,<sup>77</sup> and arson<sup>78</sup> to vandalism<sup>79</sup> and theft of copper wiring and plumbing.<sup>80</sup> They also present a persistent danger to children and others who can access the properties when not boarded and secured.<sup>81</sup> In terms of day-to-day costs, taxpayers in Memphis underwrite the increased code enforcement resources that are needed to monitor blighted properties and the emergency services needed to fight fires and provide emergency services to incidents that are directly attributable to their vacant or

---

74. Sells, *supra* note 18. Regarding the drastic impact on property tax collection, Sells explained

As far as longtime vacancy, [the Shelby County Trustee] has said there are more than 35,000 parcels of land in the county for which no one has paid any taxes in the last three to four years. That is roughly 9 percent of the total 340,000 parcels in the entire county. . . . It's a staggering figure that produces a staggering figure of its own. Delinquent taxes cost taxpayers around \$35 million here each year. If paid, [the Trustee] has said the county rate could be dropped by about 20 cents.

*Id.*

75. See also HUD Article, *supra* note 35 (reviewing nationwide study data demonstrating impact of foreclosed and vacant property on value of nearby homes).

76. Jim Spiewak, *Vacant Homes Turn into Two Crime Scenes in Memphis This Week*, FOX 13, <http://www.fox13memphis.com/news/vacant-homes-turn-into-two-crime-scenes-in-memphis-this-week/362090614> (last updated June 24, 2016) (detailing an alleged rape in one vacant home and a homicide alleged to have been committed at another in a span of one week).

77. *Id.*

78. Andrew Douglas, *Woman's Body Found after Vacant House Fire*, WMC ACTION NEWS 5 (July 31, 2016), <http://www.wmcactionnews5.com/story/17037561/womans-body-found-after-vacant-house-fire>.

79. *Id.* (noting that neighbors had “complained of people coming and going constantly from the house” before the fire); Jane Roberts, *Vandals damage vacant building costing Memphis City Schools \$1 million*, COMM. APPEAL (Aug. 2, 2012), <http://archive.commercialappeal.com/news/vandals-damage-vacant-building-costing-memphis-city-schools-1-million-ep-385255748-329327791.html>.

80. See Powell, *supra* note 63 (“To roam Soulsville, a neighborhood south of downtown Memphis, is to find a place where bungalows and brick homes stand vacant amid azaleas and dogwoods, where roofs are swaybacked and thieves punch holes through walls to strip the copper piping.”).

81. VPRN REPORT, *supra* note 24, at 16–24.

neglected condition<sup>82</sup> Neighborhoods consumed with blight themselves feel ignored and desperate.<sup>83</sup>

*C. The City's Blight Strike Response: A Litigation Strategy in Need of Reinforcements*

His city ravaged by vacant and abandoned properties left in the wake of the mortgage crisis, then Shelby County Mayor A.C. Wharton led Memphis and Shelby County in a 2009 lawsuit alleging that Wells Fargo had engaged in discriminatory lending practices that devastated black neighborhoods left destitute by foreclosure.<sup>84</sup> Shortly thereafter, Wharton made the fight against blight a centerpiece of his 2010 campaign for the Memphis mayorship.<sup>85</sup> Once elected City Mayor, Wharton launched a strategy of filing lawsuits against the owners of vacant properties.<sup>86</sup> The City's lawsuits alleged causes of action under the Tennessee Neighborhood

---

82. *Blight, Foreclosure, & Housing*, MID-SOUTH PEACE & JUST. CTR., <https://midsouthpeace.org/the-issues/blight-foreclosure-and-housing/> (last accessed Nov. 5, 2016) (noting that from August 2004 to January 2011, 1,013 vacant fires cost taxpayers \$18.2 million, and that from 2005 to 2009, emergency medical services to homeless persons costs \$600,000).

83. Katie Rufener, *People Fighting to Keep Neighborhood Livable*, WREG (June 9, 2015, 7:11 PM), <http://wreg.com/2015/06/09/people-fighting-to-keep-blighted-neighborhood-livable/> (noting "the blight so bad [in one South Memphis neighborhood that] neighbors believed the City of Memphis has abandoned them"); Sells, *supra* note 18 ("We look at how people move through or behave in our neighborhood. They come through and throw trash and they don't even live here. If they view us as blighted, they add to our blight.").

84. See Michael Powell, *Memphis Accuses Wells Fargo of Discriminating Against Blacks*, N.Y. TIMES (Dec. 30, 2009), [http://www.nytimes.com/2009/12/31/us/31wells.html?\\_r=0](http://www.nytimes.com/2009/12/31/us/31wells.html?_r=0). The law suit against Wells Fargo settled favorably in 2012, with both Memphis and Shelby County receiving money damages and "the bank commit[ing] to investing more than \$400 million in loans to spur economic development in a region hard hit by the recession." Raymond Brescia, *Wells Fargo Settlement: An Important Victory for Minority Homeowners, Communities*, PBS (June 28, 2012), <http://www.pbs.org/wnet/need-to-know/opinion/wells-fargo-settlement-an-important-victory-for-minority-homeowners-communities/14150/>.

85. Bill Dries, *City Files Blights Suits*, MEM. DAILY NEWS (Oct. 27, 2010), <https://www.memphisdailynews.com/news/2010/oct/27/wharton-files-blight-suits/> (noting that "[f]or months, Memphis Mayor A C Wharton Jr. has been standing outside old homes and warning owners of the vacant decaying properties that the city is coming with attorneys and legal papers").

86. Andy Ashby, *Wharton 'Sending a Message to Blighted Property Owners*, MEM. BUS. J. (Oct. 26, 2010, 11:40 AM), <http://www.bizjournals.com/memphis/news/2010/10/26/wharton-kicks-off-blight-campaign.html>.

Preservation Act<sup>87</sup> (NPA).<sup>88</sup> The City opted to file its cases in the Shelby County Environmental Court (the Environmental Court).<sup>89</sup>

### 1. The Tennessee Neighborhood Preservation Act

The NPA provides two distinctive causes of action. First, the Act permits the owners of residential properties affected by a nearby property that has fallen below “community standards” to recover monetary damages equivalent to the loss of value against the owner of the blighted property.<sup>90</sup> Alternatively, the act permits “any nonprofit corporation” or “any interested party or neighbor” to bring suit against a property owner for failure to comply with pertinent housing or building codes.<sup>91</sup> Rather than monetary damages, the second cause of action provides a remedy in the form of court-ordered abatement of the subject property’s condition by the owner, generally through rehabilitation or demolition.<sup>92</sup>

In pursuing the NPA’s second cause of action, the plaintiff bears the initial burden of establishing that the defendant-owner’s property is a “public nuisance.”<sup>93</sup> The term “public nuisance” is broadly defined by state law, and includes:

[A]ny building that is a menace to the public health, welfare, or safety; structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, dangerous to human life, or no longer fit and habitable; . . . or is otherwise

---

87. TENN. CODE ANN. §§ 13-6-101 to -107 (2016).

88. Mary Cashiola et al., *Blight Fighters*, MEM. FLYER (Nov. 4, 2010), <http://www.memphisflyer.com/memphis/blight-fighters/Content?oid=2413126>.

89. *Id.*

90. TENN. CODE ANN. § 13-6-104(a).

91. TENN. CODE ANN. § 13-6-106(a).

92. Under the NPA:

“[A]bate” or “abatement” in connection with any building means the removal or correction of any conditions that constitute a public nuisance and the making of any other improvements that are needed to effect a rehabilitation of the building that is consistent with maintaining safe and habitable conditions over its remaining useable life.

TENN. CODE ANN. § 13-6-102(1).

93. TENN. CODE ANN. § 13-6-106(a).

determined by the court, the local municipal corporation or code enforcement entity to be as such.<sup>94</sup>

In deciding whether to “certify” the property as a public nuisance, the Court may rely on the findings of local code enforcement personnel who have investigated the property’s conditions.<sup>95</sup>

If the Environmental Court does certify the property as a public nuisance<sup>96</sup> and the owner cannot establish a complete defense,<sup>97</sup> the Environmental Court may enter “an order of compliance” requiring the production of “a development plan” setting forth the owner’s projected steps and timeline for nuisance abatement, as well information demonstrating the owner’s financial ability to complete the abatement.<sup>98</sup> Importantly, the Environmental Court may also bar the transfer of the property until such time as the nuisance is abated and the case dismissed.<sup>99</sup> Once the Environmental Court approves the Owner’s development plan, it formalizes the same through entry of an Order to Abate. Thereafter, the Court monitors compliance through periodic status settings at which the owner and code enforcement inspectors present updates on the progress of the repairs.<sup>100</sup>

When the Environmental Court finds that an owner has abated the nuisance through satisfactory rehabilitation or demolition, the case is dismissed. If an owner repeatedly fails to adhere to the Environmental Court-approved development plan, however, the Environmental Court has the power to appoint a receiver to either

---

94. TENN. CODE ANN. § 13-6-102(9). The definition of also incorporates by reference segments of Tennessee’s criminal nuisance statute, which defines as a nuisance a place where conduct such as drug use or sales, prostitution, the unlawful sale of alcohol, or gang activity occurs. TENN. CODE ANN. § 29-3-101(a)(2).

95. TENN. CODE ANN. § 13-6-106(a).

96. The Court will dismiss the action “if the building is not certified as a public nuisance by the municipal corporation or code enforcement entity where the building is located or by the court.” TENN. CODE ANN. § 13-6-106(e).

97. The owner can establish a complete defense to any NPA action if the owner can establish “that the failure to maintain the property is due to an act of nature, serious illness, or a legal barrier.” TENN. CODE ANN. §§ 13-6-104(a), 106(e).

98. TENN. CODE ANN. § 13-6-106(f).

99. *Id.* This particular provision is crucial because of the ease with which owner-defendants might otherwise transfer title via quitclaim deed as a means of evading prosecution.

100. TENN. CODE ANN. § 13-6-106(n)(3).

complete the rehabilitation or demolish the property.<sup>101</sup> The NPA limits eligibility for receivership to municipal corporations (cities) or third party non-profit organizations appointed by the Environmental Court.<sup>102</sup>

All costs incurred by the receiver to abate the nuisance—whether through demolition or rehabilitation—may be placed along with a ten percent receiver’s fee as a super-priority lien on the owner’s property.<sup>103</sup> If the owner does not satisfy the lien within six months, the receiver may ask the court to authorize a sale from which it may recoup those costs.<sup>104</sup>

## 2. The Shelby County Environmental Court

Beyond an understanding of the NPA, I also learned that Memphis had a court devoted to handling matters relating to code violations and other health-related housing concerns. In 1983, Memphis created a new division of its City Court to adjudicate violations of its health, fire, building, and zoning codes.<sup>105</sup> In 1991, the Tennessee Legislature formalized the Shelby County Environmental Court, giving the Court a jurisdictional status equal to the County’s other General Sessions Courts<sup>106</sup> and “the exclusive jurisdiction to hear and decide cases involving alleged violations of county ordinances, including alleged violations of environmental ordinances.”<sup>107</sup> Further, the Legislature extended the Environmental Court’s authority to permit it to issue injunctive orders in aid of its jurisdiction.<sup>108</sup>

---

101. TENN. CODE ANN. § 13-6-106(h).

102. TENN. CODE ANN. § 13-6-102(10)(A).

103. TENN. CODE ANN. § 13-6-106(k).

104. TENN. CODE ANN. § 13-6-106(l).

105. *See History of the Environmental Court, SHELBY CTY.*, <http://www.shelbycountyttn.gov/index.aspx?NID=2125> (last visited Sept. 10, 2016).

106. S.B. 1046, 97th Gen. Assemb., 2d Reg. Sess. (Tenn. 1991), <http://www.shelbycountyttn.gov/index.aspx?NID=2126>.

107. *Id.* By intergovernmental agreement, the Court also presided over all ordinance violations pertaining to housing and environmental issues from Memphis and other municipalities within Shelby County. *Id.*

108. *Id.* (authorizing the Environmental Court to order compliance with the law, both to remedy the problem at hand and to prevent future violations from arising, through contempt sanction and possible ten-day jail sentence for defendants disobeying the Court’s orders).



By 2014, the Environmental Court had become the sole authority for the adjudication of code violations,<sup>109</sup> cases seeking injunctive closures of properties said to be in violation of Tennessee's Criminal Nuisance Statute,<sup>110</sup> and cases alleging claims under the NPA.<sup>111</sup> With the Environmental Court emerging as a national model, Judge Larry Potter, its founding jurist, began to travel across the world touting the benefits of consolidating a community's code and property-related matters into a single specialized court.<sup>112</sup> In Memphis, more importantly, the Court represented a single voice for NPA and related jurisprudence concerning blighted properties.<sup>113</sup>

---

109. See *Major Code Violations*, SHELBY CTY., <http://www.shelbycountyttn.gov/index.aspx?NID=2138> (last visited Nov. 6, 2016).

110. TENN. CODE ANN. § 29-3-101. For example, the Environmental Court has ordered the closing of dozens of crack houses, strip clubs, apartment complexes, and other entities deemed to constitute a public nuisance. See, e.g., Bill Dries, *Club 152 on Beale Closed as Nuisance*, DAILY NEWS (May 17, 2013), <https://www.memphisdailynews.com/news/2013/may/17/club-152-on-beale-closed-as-nuisance/> (Environmental Court closure of club for illegal drug activities); Bianca Phillips, *Fourteen Memphis Smoke Shops Shut Down*, MEM. FLYER (June 26, 2013, 3:12 PM), <http://www.memphisflyer.com/NewsBlog/archives/2013/06/26/fourteen-memphis-smoke-shops-shut-down> (detailing the Environmental Court shutdown of multiple businesses for possession and distribution of illegal synthetic drugs).

111. See *History of the Environmental Court*, *supra* note 107; S.B. 1046, 97th Gen. Assemb., *supra* note 106.

112. Chris Hamilton, *Environmental Court Would be Perfect Here—Judge*, MAUI NEWS (Aug. 12, 2012), <http://www.mauinews.com/page/content.detail/id/564397/Environmental-court-would-be-perfect-fit-here---judge.html>. Mayor Willie W. Herenton, *The Memphis Environmental Court*, UNITED STATES CONFERENCE OF MAYORS, <https://www.usmayors.org/bestpractices/litter/Memphis.html> (“Judge Potter travels extensively around the country, consulting and advising communities on [establishing] environmental courts. To date there are approximately 70 environmental courts across the U.S., many of which have been inspired by or patterned after the Memphis/Shelby County Environmental Court, which is considered to be a national model.”) (last accessed Nov. 6, 2016).

113. In general, decisions of Tennessee General Sessions Courts are appealable *de novo* to the state's trial-level courts of record, the Circuit Court and Chancery Court. By contrast, when the Environmental Court is operating in its concurrent jurisdiction with Tennessee's trial-level Circuit or Chancery Courts, as in NPA and Criminal Nuisance actions, the Court's decisions appealable directly to the Tennessee Court of Appeals. *State ex rel. Gibbons v. Club Universe*, No. W2004-02761-COA-R3-CV, 2005 WL 1750358, (Tenn. Ct. App. July 26, 2005) (holding in a criminal nuisance action that because the Environmental Court had concurrent jurisdiction with the Circuit Court, appeal from Environmental Court lies in the Tennessee Court of Appeals).

### 3. The City of Memphis's Coordinated Litigation Response to Blighted Properties

Asserting its status as an “interested party,” the City mounted an initial offensive including 138 NPA lawsuits in 2010.<sup>114</sup> The lawsuits targeted only vacant properties; notably, until a recent 2016 amendment, the NPA permitted recovery only against the owners of properties that were vacant.<sup>115</sup> The City principally pursued two categories of defendants: owners of multiple neglected properties and absentee owners who lived as far away as California and as close as Mississippi.<sup>116</sup> The City’s stated intention was to hold accountable those “big fish” owners who were financially able to bring their properties out of nuisance conditions but had a history of failing to do so.<sup>117</sup>

At the outset of the NPA lawsuit initiative, the Mayor declared an intention to file 500 cases in five years. Filing no new cases in 2011, the City next filed an additional eighty-six NPA lawsuits in February 2012.<sup>118</sup> Shortly after, the City Attorney’s Office established a “Legal Blight Strike Team”—comprised of devoted part-time City Attorney (Steve Barlow), two full-time City Attorneys with part-time commitments to the handling of blight cases, a County Prosecutor to file criminal nuisance cases—and enhanced communication with

---

114. TENN. CODE ANN. §§ 13-6-102(5), 106(g); *see also* Cashiola, *supra* note 88.

115. Before July 1, 2016, the law permitted “a civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to buildings against the owner of any building or structure *that is not occupied by any owner, tenants or residents* for failure to comply with that ordinance or regulation.” TENN. CODE ANN. § 13-6-106(a) (emphasis added). The NPA now permits a civil action to be brought against “the owner of any building or structure that is *vacant or occupied by any owner, tenants or residents* for failure to comply with that ordinance or regulation.” *Id.* (emphasis added).

116. Cashiola, *supra* note 88.

117. *Id.* (“The last thing we want to see in this effort is some senior citizen who doesn’t have the financial means to fix up the house they’ve lived in for 40 to 50 years,” Watkins said: “We’ve got to go after the big fish.”). Notably, Mayor Wharton is himself a lawyer who served as both the director of Memphis Area Legal Services (Shelby County’s Legal Services Corporation entity) and the Public Defender for Shelby County. He also taught Poverty Law courses at the University of Mississippi School of Law for many years. *The Honorable A.C. Wharton*, HISTORY MAKERS, <http://www.thehistorymakers.com/biography/honorable-c-wharton-jr> (last visited Sept. 10, 2016).

118. Andy Meek, *City, D.A. File More Suits, Legal Action to Fight Blight*, MEM. DAILY NEWS (Feb. 10, 2012), <https://www.memphisdailynews.com/editorial/Article.aspx?id=66308>.

Code Enforcement leadership.<sup>119</sup> The City was filing ten to twelve new cases each month and by 2013 had approximately 200 active cases, many of which were resulting in the restoration of neglected houses to productive use or the removal of unsalvageable properties that posed a danger to the public.<sup>120</sup>

Even with the City's heightened focus supplemented by a smattering of NPA cases filed by non-profit entities and impacted homeowners,<sup>121</sup> resource limitations greatly limited the City's ability to execute its litigation strategy. In the Summer and Fall of 2014, the Law School offered an externship placement with the City.<sup>122</sup> Between the two semesters, urged on by Kermit Lind, himself a clinical professor whose work with law students had focused on the revitalization of neighborhoods through the representation of community development corporations in litigation,<sup>123</sup> Steve Barlow came to me in the with a straightforward but loaded question: Could a law school clinic be the answer?

## II. THE NEIGHBORHOOD PRESERVATION CLINIC: LAUNCH AND DESIGN

Now convinced of both the enduring threat posed by neglected properties, and the ability to seek effective redress through the

---

119. See City of Memphis, *City of Memphis Blight Interdiction Task Force—Teams and Responsibilities* (on file with author) (describing the “Blight Task Force-Legal Strike Team” and noting that “Memphis is joining the ranks of the most progressive code enforcement operations in the country by establishing the Legal Strike Team for attacking blight in all of its forms with the most aggressive legal strategies available.”).

120. “To address blight in the city, the Legal Blight Strike Team was established, and this resulted in the successful rehabilitation or demolition in over 70% of its cases.” *2014 GPLSD Award Nominees*, AM. BAR. ASS’N, [http://www.americanbar.org/content/dam/aba/administrative/government\\_public/2014\\_Award\\_Nomination\\_Summaries.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/government_public/2014_Award_Nomination_Summaries.authcheckdam.pdf) (detailing accomplishments of City of Memphis Attorney’s Office in support of nomination for ABA Hodson Award recognizing “sustained outstanding service or a specific extraordinary accomplishment by a government or public sector law office.”) (last accessed Sept. 11, 2016).

121. See, e.g., April Thompson, *Neighborhoods Fighting Blight Through the Courts*, NEWS CHANNEL 3 (Mar. 20, 2014, 11:35 PM), <http://wreg.com/2014/03/20/neighborhoods-fighting-blight-through-the-courts/> (detailing NPA lawsuit filed by neighborhood association in Southeast Memphis against owner of abandoned property overrun by vagrants, drug users, and vermin).

122. See *E-mail from Steve Barlow and Danny Schaffzin*, *supra* note 9.

123. See *Emeriti/ae Faculty*, CLEVELAND-MARSHALL C. OF L. <https://www.law.csuohio.edu/facultystaff/eva/emeritusprof> (last visited on Sept. 11, 2016).

Environmental Court, I suddenly found myself eager to build this clinic for Memphis and for the Law School. While for years I had taught a Civil Litigation Clinic that advocated for tenant and consumer rights, I had admittedly grown frustrated by everything from the unpredictability of in-court opportunities for students to aggravating case outcomes.<sup>124</sup> I was looking for a different kind of challenge, for me and for my students, and transitioning the focus of my Clinic in this way offered the possibility to explore both an unusual model of in-house clinical collaboration (one involving the government as client) and an area of practice that was completely different from anything I had done before.

#### *A. Clinic Launch*

Within a month of our initial conversation, Steve and I had agreed on a construct that excited each of us. Perhaps more importantly, the City Attorney blessed an arrangement whereby the Clinic would take the City's existing NPA caseload—then between 200 and 300 cases—entirely in house.<sup>125</sup> Steve and I would co-teach and co-direct the Clinic; initially, at least, he would lead on the law and procedure of Neighborhood Preservation Act case work while I would focus on ensuring that the course honored the pedagogy and core mission of training the Clinic students.<sup>126</sup>

We talked often, sometimes daily, about what the Clinic could be and could do. Like a Clinic student myself, I studied the law, the policy, and the scholarship, and I observed weekly NPA dockets in the Environmental Court. I also talked with anyone who would talk with me: The Environmental Court Judge and his staff, as well as Code Enforcement personnel. The responses were uniformly enthusiastic. From Judge Potter to the City Attorney to the City's

---

124. See generally Margaret M. Jackson & Daniel M. Schaffzin, *Preaching to the Trier: Why Judicial Understanding of Law School Clinics is Essential to Continued Progress in Clinical Education*, 17 CLINICAL L. REV. 515 (describing the common challenges to law school litigation clinics).

125. I do not want to get into the differences between in-house clinic, hybrid clinics, and externship forms here. Suffice it to say, I wanted to design a Clinic course that had both the seminar and case responsibilities in one place.

126. See *supra* notes 14–17 and accompanying text for a discussion of the historical missions of clinical legal education.

Director of Public Works,<sup>127</sup> everyone was excited to work with law students and endorsed the notion that a law school clinic could foster real and positive impact for Memphis.

With the Spring semester looming, Steve and I submitted a proposal for our new Clinic to my faculty colleagues on September 22, 2014.<sup>128</sup> In pertinent part, the proposal described the anticipated student experience in the Neighborhood Preservation Clinic as follows:

Students enrolled in the University of Memphis Neighborhood Preservation Clinic will have the opportunity to experience lawyering from the standpoint of the municipal lawyer and municipal administration addressing the complex legal, economic and social issues surrounding real property abandonment and neglect in Memphis, Tennessee.

Working under faculty supervision and on behalf of the City of Memphis, students will be assigned to investigate property ownership and conditions, communicate with field code enforcement professionals, prepare civil lawsuits, and prosecute neglectful owners seeking an enforceable order of compliance with property maintenance and other local housing and building code standards. Cases will be brought in the Shelby County Environmental Court, a unique court of special jurisdiction concurrent with the Tennessee Circuit and Chancery Courts for certain purposes, including the prosecution of cases alleging the existence of a public nuisance (as defined in Tennessee Code Annotated § 13-6-102 (8)), and requesting either an order of compliance or the appointment of a receiver to abate such public nuisance.

To complement their work as anti-blight litigators, Clinic students will participate in a weekly classroom session focused on the pervasive challenge of blight and abandonment in

---

127. The Public Works Department is the division that houses Memphis's Code Enforcement operation. *See Code Enforcement*, CITY OF MEM., <http://www.memphistn.gov/Government/PublicWorks/CodeEnforcement.aspx> (last visited Nov. 6, 2016).

128. *See* Memorandum from Daniel M. Schaffzin to Curriculum Committee (Sept. 22, 2014) (on file with author).

Memphis. The seminar segment of the weekly class will be designed to survey substantive code enforcement and housing law, explore national models of legal strategies to address blight and abandonment, outline practice and procedure in the Shelby County Environmental Court, provide skills training, and consider issues of ethics and professionalism that arise in the context of their cases. The seminar component of the weekly class will complement the case rounds component, during which students will engage in an ongoing discussion of the myriad issues and challenges they are experiencing in the cases they are handling.<sup>129</sup>

With little pushback,<sup>130</sup> the faculty approved the course. Shortly thereafter, we received fifteen applications from third-year students interested in enrolling in the Clinic, eight of which were accepted. On January 8, 2015, just four months after I heard the initial proposal, the Law School and the City of Memphis Law Division launched the Neighborhood Preservation Clinic.<sup>131</sup> At a press conference coinciding with the demolition of one of Memphis's most notorious examples of blight, Mayor Wharton stated, "When I was in law school, we learned how to defend property owners and landlords. But we didn't have anything like we're doing today. . . . [University of Memphis Neighborhood Preservation Clinic students will get] real world experience in litigating some of the toughest cases to handle."<sup>132</sup> Upon that daunting mandate, we were off and running.

### *B. Clinic Design*

Although non-traditional in the sense that it represents a single governmental client—the City of Memphis—the Neighborhood Preservation Clinic's design is akin to that of a traditional in-house

---

129. *Id.*

130. The little pushback I did receive focused on questions about resources.

131. See Peggy Burch, *Demolition of Executive Inn Kicks Off Anti-Blight Law Clinic*, COM. APPEAL (Jan. 9, 2015), <http://www.commercialappeal.com/news/government/city/demolition-of-executive-inn-kicks-off-anti-blight-law-clinic-ep-867136357-324499121.html>.

132. Bianca Phillips, *New Anti-Blight Clinic Launched at U of M Law School*, MEM. FLYER (Jan. 9, 2015, 1:40 PM), <http://www.memphisflyer.com/NewsBlog/archives/2015/01/09/new-anti-blight-clinic-launched-at-u-of-m-law-school>.

law school clinical course.<sup>133</sup> The students begin the Clinic semester with a three-week intensive orientation period. Thereafter, Clinic students assume day-to-day responsibility for and management of their assigned cases, with the expectation that each student will perform a minimum of fifteen hours per week working on Clinic cases and assignments. Those hours include time spent handling either a morning or afternoon session of the Environmental Court's Thursday Neighborhood Preservation Act docket. The Clinic's weekly classroom seminar component supports its casework, generally dividing time between student-drive case rounds and faculty instruction on more discrete topical issues. Beyond their casework and participation in the seminar, each student is responsible for four focused journal assignments and for teaming with another Clinic student to plan and present a community workshop or trainings related to neighborhood preservation and anti-blight advocacy.<sup>134</sup> Each of the Clinic's distinctive components is described in more depth below.

### 1. Three-Week Orientation

Each semester, the Clinic launches with a three-week intensive orientation. The orientation, totaling thirty total hours, aims: (1) to provide the students with a competent understanding of the pedagogy that differentiates clinical legal education and the methods through which that pedagogy will manifest in the Neighborhood Preservation Clinic, (2) to introduce the students to their "client" and to the Court in which they will be working, (3) to teach the substantive law and procedure that will govern the Clinic's casework, (4) to give students the tools to research and understand the distinctive story surrounding the distressed property, its owners, and other players involved in each case they are handling; (5) to impress upon the students the vital role that organization and file maintenance play in lawyering; and (6) to

---

133. See Jackson & Schaffzin, *supra* note 124, at 520–37 (describing the core elements of an in-house legal clinic).

134. See Daniel M. Schaffzin, *Spring 2016 Neighborhood Preservation Clinic Syllabus* (on file with author).

provide a context in which to understand the problems posed by blighted properties in Memphis and elsewhere.<sup>135</sup>

The theme of the first orientation week is “expectations.” The first orientation session leads off with a discussion about the distinctive pedagogy at play in clinical courses and the heightened expectations placed upon on clinic student attorneys as first-time case handlers.<sup>136</sup> As a prelude for later conversations, we also overview the history of clinical legal education, asking students to share initial thoughts on the appropriateness of the Clinic’s role in representing the government, and whether and how our Clinic can be said to have a social justice mission and to work in the public interest.<sup>137</sup>

The first orientation session then transitions to a class discussion surrounding the “What is blight?” question. Prompted by the assigned reading on the topic,<sup>138</sup> students engage in rich dialogue that itself reinforces the unsettled meaning of the terminologies and policies at

---

135. See generally Larry Cunningham, *The Use of “Boot Camps” and Orientation Periods in Externships and Clinics: Lessons Learned from a Criminal Prosecution Clinic*, 74 MISS. L.J. 983 (2005) (speaking to the opportunities and challenges of utilizing a front-ended period of instruction to orient students in experiential learning courses).

136. Assigned reading for this first orientation session includes Professor Steve Berenson’s terrific piece, *A Primer for New Civil Law Clinic Students*, 38 MCGEORGE L. REV. 603 (2007). In “welcoming” new clinic students, Berenson states:

You are about to embark on an adventure that is likely to differ significantly from most of your prior educational experiences. Though it can be tremendously rewarding, practicing law on behalf of actual clients can also be a jarring experience for new student-lawyers. Of course, it is the immediacy, authenticity, and demands of actual client representation that are the chief strength of clinical education, as well as its most significant distinguishing feature from classroom instruction in law. The many challenges that will arise in the course of your work on behalf of clients will likely be fresh and new.

*Id.* at 603.

137. Berenson’s article addresses clinical legal education in the context of its outgrowth from and ties to the civil legal aid movement. *Id.* at 604–14. While he declares that “law school clinics undeniably have a social justice mission, as well as a mission to educate students,” he concedes that because of resource challenges increasingly facing legal aid organizations and law school clinics, “the present public interest law movement, an umbrella term which encompasses both civil legal aid, law school clinics, and more, has morphed into an extremely complex array of alliances involving public lawyers and private practitioners, government and non-government entities, federal, state, and local authorities, and combined public and private foundation funding.” *Id.* at 617, 626.

138. For the “What is blight?” orientation segment, we ask students to read the *Charting the Multiple Meanings of Blight and Perspectives on Abandoned Houses in a Time of Dystopia* pieces discussed in depth above. See *supra* Part I.A.



the heart of the blighted properties dilemma. Almost immediately, consensus emerges among the students about the devastating impact of blight, the broken neighborhoods left in its wake, and the broader effects it has on whole communities in terms of property tax diminution and the evisceration of a property tax base.<sup>139</sup> Here, spurred on by Professor Lind, the majority of students admit a new appreciation for just how many people and entities are involved by the problem of blighted properties.<sup>140</sup> They generally assert a need to understand the role and perspective of even the unpopular players—for example, the absentee property owners and banks whose controlling interests have come as a result of questionable foreclosures—so that they can best advocate for the City in their cases. Considerably fewer students at this point raise the considerations of race and discrimination tied so closely to blight,<sup>141</sup> but this discussion often helps to plant the seeds for important discourse concerning those issues to come later in the semester.

The first orientation session culminates with a visit by Environmental Court Judge Larry Potter and Environmental Court Referee John Cameron to the Law Clinic.<sup>142</sup> Judge Potter and Referee Cameron commence with a history of the Environmental Court and explain how it administers the many kinds of case that come before it, including the NPA cases for which the students will be responsible. Perhaps more valuable, however, are the candid perspectives communicated by both Judge and Referee concerning professional conduct in the Environmental Court and the problems of neglected properties as they see them. The session amounts to an interactive tutorial, one in which the students get to know the Judge and Referee and their expectations. Likewise, the Judge and the Referee get to know the students and, with every passing semester, come to better understand the nuances and value of clinical education.<sup>143</sup>

---

139. *See supra* Part I.

140. *See Lind, supra* note 47 and accompanying text.

141. *See supra* notes 25–29 and accompanying text.

142. For this session, the Clinic students are asked to read the Environmental Court Enabling Legislation and the *Club Universe* case. *See supra* notes 96–106 and accompanying text.

143. *See generally* Jackson & Schaffzin, *supra* note 124.

The second day of orientation carefully explores the Tennessee Neighborhood Preservation Act, considering the life of an NPA case from before filing through dismissal.<sup>144</sup> As students are guided through the causes of action permitted under statute,<sup>145</sup> we demonstrate its requirements by walking them through two orders that the City seeks to obtain in every case: the Order certifying the owner's property as a public nuisance and the Order requiring the owner to abate the nuisance in accordance with the development plan and timeline approved by the Court.<sup>146</sup> We also help students to understand the NPA's receivership remedy.<sup>147</sup> The session is both practical—exploring, for example, the kinds of evidence that can be used to demonstrate a property's nuisance condition—and theoretical—considering why demolition is not always the preferred means of abating a nuisance and in what cases might the City prefer an outcome of rehabilitation over demolition.<sup>148</sup>

Thereafter, the first week of orientation concludes with a session focused on representing the municipal client.<sup>149</sup> Each semester, this session has started with a visit from both the Memphis Mayor<sup>150</sup> and

---

144. See *supra* Part I.C.1 for a detailed discussion of the Neighborhood Preservation Act.

145. See *supra* Part I.C.1 for a detailed discussion of the Neighborhood Preservation Act. See also *supra* notes 91–93 and accompanying text (explaining the NPA's alternative causes of action—one for monetary damages for diminution in neighboring property value and the other for abatement of the subject property's condition by the owner).

146. See *supra* notes 91–101 and accompanying text.

147. See *supra* notes 91–105 and accompanying text.

148. See generally FRANK FORD & JEFF MARKS, PROVIDING A FRAMEWORK FOR THE “REHAB VS. DEMO” DEBATE: FINDINGS FROM A HARVARD UNIVERSITY STUDY (2014), [https://www.thelibrarybook.net/view.php?res=http://www.clevelandrestoration.org/preserving\\_landmarks/HarvardStudy.pdf&keyword=Providing+a+Framework+For+The+Rehab+vs+Demo](https://www.thelibrarybook.net/view.php?res=http://www.clevelandrestoration.org/preserving_landmarks/HarvardStudy.pdf&keyword=Providing+a+Framework+For+The+Rehab+vs+Demo)”+Debate (analyzing the cost-effectiveness of rehabilitating blighted homes).

149. Readings assigned for this session include Tenn. Rules of Prof. Conduct r. 1.13 (governing the representation of an organizational client); Restatement (Third) of the Law Governing Lawyers §§ 96–97 (Am. L. Inst. 2000) (providing appropriate conduct in the representation of organizational and governmental clients); and Adam Edris, *Issues of Client Identification for Municipal Attorneys: An Agency and Public Interest Approach*, 24 GEO. J. LEGAL ETHICS 517 (2010).

150. For the first three semesters of the Clinic, Mayor A.C. Wharton came to visit with the clinical students. Mayor Strickland, who took office in January 2016 after defeating Wharton on a platform arguing that not enough was being done to tackle blight, now participates in the Clinic's orientation. Both Mayor Wharton and Mayor Strickland are lawyers and staunch supporters of the Clinic as a necessary tool in the City's anti-blight effort and as a vehicle for training law students. Notably, Mayor Strickland is a graduate of the University of Memphis School of Law.

the City of Memphis Attorney.<sup>151</sup> Together, the Mayor and the City Attorney clarify the City's overarching expectations for the Clinic's work and offer a frank glimpse into the politically charged nature of the blighted properties problem. Both lawyers, the Mayor and City Attorney also help to introduce the challenge of client identification so often at play when representing a governmental entity.<sup>152</sup> Understandably, this is the first time that many of the Clinic students are made to focus on the practical and ethical considerations involved in representing a City.<sup>153</sup> The session closes with presentations from representatives of the City's Code Enforcement operation, including the director, supervisors, and several Code Enforcement inspectors. These are the faces of the "client" with whom the students will deal most frequently, and these important interactions allow the students to start forming positive relationships while gaining a better understanding of blighted properties from those directly in its line of fire.<sup>154</sup>

With the first orientation week intending to offer a macro view of blight and blight litigation in Memphis, the second week is more micro-focused on instilling the finer points of Clinic case handling. At the week's start, students receive their case assignments. Having previously armed the students with a broad substantive understanding of the Tennessee Neighborhood Preservation Act, the second orientation week trains students on the due diligence steps necessary to learn about the properties at issue in their cases and the processes for filing and serving Neighborhood Preservation Act lawsuits. For each assigned case, whether already filed as a lawsuit or not, students must determine Code Enforcement's historical efforts to bring the

---

151. Former City Attorney Herman Morris, under whose direction the City's Blight Strike Team began its work in earnest, visited with the Clinic during its first three semesters. New City Attorney Bruce McMullen, appointed by Mayor Strickland, now meets with Clinic students during this orientation session. Among his important messages, Mr. McMullen shares with the students the value and importance of the in-house clinical experience he had while a student at the University of Tennessee College of Law.

152. See *infra* notes 192–201 and accompanying text.

153. See *infra* notes 192–201 and accompanying text.

154. Joe Schilling, *Code Enforcement and Community Stabilization: The Forgotten First Responders to Vacant and Foreclosed Homes*, 2 ALB. GOV'T. L. REV. 101 (2009).

property into compliance,<sup>155</sup> the property's current owner and ownership history,<sup>156</sup> whether there are encumbrances on the property's title and what those encumbrances might mean,<sup>157</sup> and the property's tax history.<sup>158</sup> In addition to learning how to gather this information, students are taught to read and understand title search reports, mortgage and deed documents, and liens. Because many of the Clinic's cases involve corporate owners, students must also be trained to locate and digest information about corporate structure and assets.<sup>159</sup>

At this point, Clinic students also learn how to file a Neighborhood Preservation Act lawsuit in the Shelby County Environmental Court and to ensure proper service of the same. Instruction on filing includes both guidance on what needs to be included in the Civil Warrant (the initial pleading)<sup>160</sup> and how to file the same with the clerk's office.<sup>161</sup> By the end of the Clinic semester, every student has filed multiple NPA lawsuits.<sup>162</sup>

---

155. Code Enforcement files are highly technical, but they can provide very specific details including pictures, speaking to the extent of the property's distressed condition, identifying the owner and the owner's location, and offer a glimpse into issues that have arisen or might in the future arise if the City does file an NPA. These issues might include difficulty locating or getting service on the owner or challenges posed by owners who are slow or unwilling to work toward resolution. Reviewing existing Code Enforcement information can also help students form follow-up questions or seek out information not included in the file.

156. The most common sources of this publicly available information are the Shelby County Register of Deeds website, SHELBY COUNTY REG. OF DEEDS, <http://register.shelby.tn.us> (last visited Sept. 11, 2016); the Shelby County Trustee's website, SHELBY COUNTY TR., <https://www.shelbycountystatetrustee.com> (last visited Sept. 11, 2016); and the Shelby County Tax Assessor's Office website, ASSESSOR OF PROP., <https://www.assessor.shelby.tn.us> (last visited Sept. 11, 2016).

157. SHELBY COUNTY REG. OF DEEDS, <http://register.shelby.tn.us> (last visited Sept. 11, 2016).

158. Tax delinquency is commonly associated with property abandonment and blight. Lind & Schilling, *supra* note 20, at 838 (noting that "tax delinquency is often an indicator of abandonment and blight"). See also SHELBY COUNTY TR., <https://www.shelbycountystatetrustee.com> (last visited Sept. 11, 2016); ASSESSOR OF PROP., <https://www.assessor.shelby.tn.us> (last visited Sept. 11, 2016).

159. See *Business Services Online*, TENN. SECRETARY OF ST., <https://tnbear.tn.gov> (last visited Sept. 11, 2016).

160. Because the Environmental Court is a Tennessee General Sessions jurisdiction, the Clinic initiates its lawsuits by filing a Civil Warrant. See TENN. CODE ANN. § 16-15-17 (2016) (instructing that "a civil action in the general sessions courts is commenced by a civil warrant . . ." and providing a form for the Civil Warrant).

161. Although the NPA is a civil lawsuit, it is filed with the Shelby County Criminal Clerk's Office. This is not because the Environmental Court is one possessing both civil and

Once a case is filed, the NPA requires that it be served on the defendant property owner in each of three ways: (1) in a manner that complies with Tennessee Rule of Civil Procedure 4,<sup>163</sup> which generally requires service by certified mail, (2) by posting a copy on the property of the defendant that is the subject of the lawsuit; and (3) publishing a copy of the lawsuit in a local paper.<sup>164</sup> To reinforce the importance of the notice and due process obligations at play, Clinic students are responsible for taking all steps required for proper service of new lawsuits. For those assigned cases that were filed before they started in Clinic, students must nonetheless do what is necessary to independently corroborate that service has been effectuated in a manner that satisfies the NPA.<sup>165</sup>

Picking up from the point in time at which the case has been filed, the balance of the second orientation is spent training students on the handling of active NPA cases. Because the Clinic carries a higher volume of cases, we convey to students their responsibility to ensure that the file for each Clinic case tells all that has happened previously and what needs to happen next. Emphasis is placed on expectations for pre-court preparation,<sup>166</sup> post-court follow-up,<sup>167</sup> and file

---

criminal jurisdiction. Rather, it is because the Environmental Court is located in the same building as the criminal courts and shares their case management software system and clerks.

162. I have often argued that no law student, regardless of interest or area of intended practice, should graduate from law school without actually preparing and filing a complaint. This is one of many things I love about this Clinic.

163. Tennessee Rule of Civil Procedure 4 addresses the requirements of service on both in-state and out-of-state defendants. TENN. R. CIV. P. 4. Clinic students may demonstrate a general familiarity with service-related concepts from their Civil Procedure courses and work in other legal settings before Clinic, but they leave this Clinic knowing the nuanced requirements of service.

164. TENN. CODE ANN. § 13-6-106(c) (2016).

165. Explanation of the service obligations is accompanied by good discussion of notice and due process considerations at play when dealing with vacant and abandoned properties. Why, some students ask, must the Clinic go to all of the trouble and expense of executing service by three different means when the owner has so clearly demonstrated a desire to leave the property to be someone else's worry?

166. Depending on how far along the case has progressed, the student may need to prepare one or more proposed orders to present to the Court. Whether the student will be seeking an order or the case is merely set for a status, the student needs to prepare to advise the Court on the current condition of the defendant's property as determined by Code Enforcement, what has previously happened in Court, the City's position on what needs to happen next. If the case is set for a hearing, perhaps on whether the property is a public nuisance or whether a receiver needs to be appointed for owner non-compliance with a previously-entered Order to Abate, the student needs to take all steps necessary to be ready for that hearing. And if there are special

maintenance at all points in time.<sup>168</sup> We also spend significant time training students on and simulating oral and written communication with opposing counsel and pro se defendants in their cases.<sup>169</sup>

This part of the Clinic orientation also addresses expectations for handling cases once in court. Although a continuous point of focus throughout the semester, students participate in guided simulations of direct examinations of code enforcement officers and cross-examinations of owners, presentations of evidence, case status reports to the court, and hearings on questions of public nuisance or the appointment of a receiver for non-compliance. Students also receive training on the preparation and interaction with other persons (e.g., code enforcement witnesses, opposing attorneys or pro se owners, or angry neighbors) that occur once in court, but before the actual court appearance. Because Clinic students are often juggling several cases set for Court on a given day, this aspect of the orientation training is often viewed by the students as the most valuable.

The second week of orientation concludes with each student observing a morning or afternoon session of the Environmental Court's NPA docket. While often overwhelming for the students, introducing the courtroom observation experience at this time usually helps to bring together for the students the substantive and procedural concepts, as well as the nuanced processes, on which they have

---

issues that need to be raised with the Court, the student needs to prepare to address the Court on those issues as well.

167. Among other post-court responsibilities, students must serve copies of Court orders and ensure that the hard copy and electronic files are updated to include all new orders and case-related information/documents. In addition, students are asked to prepare a brief memorandum to the file after each case setting, including a memorialization of what transpired in Court and a recitation of all short and long-term next steps for the given case.

168. At present, the Clinic makes use of both hard copy files and an electronic case management database. During orientation, students are trained on the best practices for maintaining both.

169. Readings assigned for the session in which pro se litigants are discussed include John M. Burman, *Dealing with an Opposing Party Who Is Proceeding Pro Se*, 31 WYO. LAW., June 2008, at 1, [http://www.americanbar.org/content/dam/aba/administrative/delivery\\_legal\\_services/ls\\_del\\_wyominglawyerethicallyspeaking.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_wyominglawyerethicallyspeaking.authcheckdam.pdf) and *Pro se litigants: Tips for Opposing Counsel, Courts*, YOUR ABA (July 2014), <http://www.americanbar.org/publications/youraba/2014/july-2014/pro-se-litigants--tips-for-opposing-counsel--courts.html>. See also ELIZABETH FAJANS ET AL., WRITING FOR LAW PRACTICE (2004).

recently been trained.<sup>170</sup> Students feel the frenzy of a docket that generally includes fifty to sixty cases in a single day, see the parties in a court room context, and watch the Clinic faculty in action. As a result, Clinic students begin to visualize themselves in the role of student attorney. These takeaways are reinforced by in-the-moment and follow-up sessions with faculty that prompt reflection and permit questions about all that they have observed.

The third and final orientation week aims to empower Neighborhood Clinic students as advocates. The first session focuses on the pedagogy and strategic power of storytelling and case theory.<sup>171</sup> Students are asked come to class prepared to present one of their assigned cases in the form of a story. Using the fact investigation tools highlighted earlier in orientation, some students offer a straightforward recitation of property address and condition, owner name, timeline from vacancy to court action, status of court action, and other objective details before expressing an opinion on what the City needs to do next. Others state the City's "position" more emphatically, giving color to the same information by highlighting persuasive facts that characterize the owner-defendant ("single-asset LLC located in another state and ignoring this property," "elderly woman owns it, but can't do much financially") or the threat posed by the property's condition ("the house is a hopeless burnout and has gang graffiti all over it"). Interestingly, nearly every student tells the story from the City's standpoint and without reference to the pre-litigation history of the subject property. Very few students initially focus on some of the most telling—and compelling—details: how the property came to be in a distressed state; who owned the property previously and how it came to be the responsibility of the current owner; where is the property located and how the property has impacted the people, homes, and community around it.

---

170. See generally J.P. "Sandy" Ogilvy, *Observation*, in *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS* 59–82 (3d ed. 2016) (discussing the importance of and best practices for learning through observation).

171. Before this session, Clinic students are asked to read Jonathan K. Van Patten's *Storytelling for Lawyers*, 57 S.D.L. REV. 239 (2012). Van Patten offers 25 propositions for using storytelling to enhance legal advocacy. *Id.*

There are many wonderful takeaways from the storytelling exercise. It reinforces for the students the fact that every case is different and involves a property with a story all its own. It also conveys that some details are more compelling than others, and that strong advocacy involves a comprehensive understanding of all pertinent details and the exercise of careful discretion in choosing which of those details will be most helpful in attaining the desired outcome. Ultimately, the storytelling session encourages the students to give each case its own attention and its own order. Formulating the right strategy for the City in each of its NPA cases requires a deep understanding of the property—far beyond just the factors that make it a “public nuisance”—and a willingness to see it beyond the confines of the case or lawsuit that has brought it into the Clinic’s focus.

On the heels of the storytelling session, and to emphasize its lessons, the students complete orientation with two powerful excursions into the community. First, the Clinic class, including faculty, take a bus tour of several properties actively involved in NPA lawsuits and certain neighborhoods most overrun by vacancy and abandonment. Seeing the properties, many of them in neighborhoods or parts of town that are not in the students’ normal course of travel, offers the students yet another context within which to consider the neglect underlying the cases they are handling. Along the way, students point out schools, churches, and community centers that reside near the properties. They see children and families living or walking by them. They form their own thoughts and perspectives about how blighted properties affect the City they are representing.

Second, the students go on a half-day ride-along with Memphis Code Enforcement inspectors. Observing the inspectors in context, the students feel the hopelessness that often accompanies the inspection of an abandoned home stripped by ne’er-do-wells of its innards and otherwise marked by the stench of a life left behind. They feel the fear and apprehension of encountering a property the



Code inspector knows has played host to vagrants or animals.<sup>172</sup> They feel the tension at play when the Code inspector is threatened by the angry owner of a non-compliant property, or asked for one more chance by an owner whose property's violations are the result of financial inability.

## 2. Assigned Cases and Weekly Case Docket

Clinic students receive their case assignments at the start of the second week of orientation. This timing allows students to refer to their own cases as they receive training on case responsibilities and procedures. It also encourages them to immerse themselves in the specifics of the cases on which they will begin working in earnest and handling in the Environmental Court as early as the fourth week of the semester.

To promote the students in getting to know where the properties involved in their cases reside and the code enforcement personnel assigned to those areas, we aim to divide up the students' case assignments by City Council district. Some students are assigned to only one heavy-volume district. Other students may be assigned to two districts to account for the lower volume in the districts when considered individually. In total, it is common for students to have day-to-day responsibility for thirty-five to forty cases, with most of those cases being assigned at the semester's start.

Clinic students devote a minimum of fifteen hours a week to their Clinic cases or classwork. Those hours include eight scheduled hours working in the Legal Clinic office, an assigned Thursday morning or afternoon NPA court docket (approximately three hours in length), and a two-hour weekly class session. Clinic students submit weekly

---

172. Having observed this during a visit to a property with a Code enforcement inspector, one law student reflected as follows:

I was able to visit a NPA property with Inspector [REDACTED] and see her in action. It is amazing that inspectors risk their safety every day in order to enforce the city code. I am 100% sure I could not do that every day. Someone asked me what I was holding as we toured the property. I definitely was holding a bat because I am ALL about safety-first! Seriously, the inspectors are amazing and we are lucky to have them working with us.

L. Perry, *Journal Reflection* (Mar. 31, 2016) (on file with author).

timesheets that detail their work on individual cases, completion of assignments unrelated to cases (e.g., work on Clinic workshops), and attendance at Clinic class other Clinic-related programs. The Clinic's overall workload and required time commitment are designed to offer the student insight into the realities and often-competing obligations of litigation practice.

Although seemingly high in the sense of clinical teaching norms,<sup>173</sup> the assignment of thirty-five to forty cases has proven to offer students a more than manageable mix in terms of exposure to the many facets of and myriad issues that can arise in an NPA case. Because each student is assigned both new and pending cases, she more quickly becomes comfortable with the common steps and strategic calls that come at various points in the average NPA case. Although many cases do proceed straightforwardly—in the manner and order contemplated by the statute—each grouping of assigned cases also tends to involve the Clinic student in one or more cases deemed more sensitive because of the property at issue,<sup>174</sup> the need to interact with legislators or community groups exerting pressure on the City,<sup>175</sup> or the interest of the news media.<sup>176</sup> Many cases require students to devote time to resolving distinctive questions of fact or law, while others proceed with little fanfare and allow the student to celebrate dismissal with the owner after the nuisance has been abated.

Once a case is on file, it is generally scheduled for court once every four to six weeks because of the Environmental Court's strong preference for staying updated on progress toward nuisance abatement at each property. This scheduling has resulted in each student having direct responsibility for three to five cases on each weekly docket. It also gives the student the time he or she needs to handle the day-to-day work required on each case between court

---

173. See Winzer & Aiken, *supra* note 14.

174. See Chris Herrington, *Aretha Franklin's Memphis Birth Home in Danger of Demolition*, COM. APPEAL (June 12, 2016), <http://www.commercialappeal.com/entertainment/music/aretha-franklins-memphis-birth-home-in-danger-of-demolition-350904b4-86b2-5a29-e053-0100007f3069-382628031.html>.

175. See *infra* text accompanying notes 221–22 for a discussion of Clinic cases involving pressure from non-party neighborhood groups.

176. See *infra* text accompanying notes 221–23 for examples of Clinic cases involving ongoing media interest.

settings. Ultimately, the volume of cases rewards the student who plans and works efficiently. Between fact and legal research, drafting and memorializing correspondence, preparing civil warrants and proposed orders, updating files, communicating with faculty supervisors and team members, and readying for status updates, hearings, or other expected activity at the next court setting, there is always something to be doing.

Clinic co-directors supervise and give feedback to students as they prepare and handle their cases. Additionally, a Neighborhood Preservation Fellow assists students in court and handles the NPA docket.<sup>177</sup>

### 3. Classroom Seminar

Throughout the semester, Clinic students also participate in a weekly, two-hour classroom seminar designed to inform and support the work they are doing on Clinic cases and projects. The usual seminar session is divided into two segments. The first segment devotes time to teaching about a discrete issue related to the Clinic's substantive focus on real property abandonment and neglect, a problem commonly encountered in Clinic cases, or a skill commonly utilized in the Clinic's work. Examples of topics explored during this portion of the seminar include tax delinquency and foreclosure,<sup>178</sup> considerations in cases adverse to pro se parties,<sup>179</sup> and drafting persuasive correspondence in litigation.<sup>180</sup>

The second segment of each Clinic class is dedicated to case rounds.<sup>181</sup> While Clinic students are constantly discussing their cases

---

177. See *infra* text accompanying notes 209–13.

178. See HUD Article, *supra* note 35; Lind & Schilling, *supra* note 20, at 838. Often, this class is either led by or includes visit by the Shelby County Trustee, whose office administers the tax collection process, and the Clerk and Master of the Shelby County Chancery Court, who administers the sale of tax-delinquent properties.

179. See *supra* note 170 (citing readings assigned for Clinic orientation session covering interactions with pro se litigants).

180. See generally Tanya Kowalski, *Toward a Pedagogy for Teaching Legal Writing in Law School Clinics*, 17 CLINICAL L. REV. 285 (2010) (proposing methods for more effective teaching of legal writing in law school clinics).

181. See generally Susan Bryant & Elliot S. Milstein, *Rounds: A "Signature Pedagogy" for Clinical Education?*, 14 CLINICAL L. REV. 195 (2007) (assessing the educational value of case rounds in the clinical setting).

with Clinic faculty and fellow students—both in scheduled meetings and through informal conversation—weekly case rounds afford students a forum in which to raise and receive feedback from the collective Clinic team on strategic questions and special issues. Additionally, case rounds often provide a setting in which Clinic students and faculty share successes, suggestions, or updates. Because it is held out as a safe and confidential space, case rounds discussion can often provide a haven for a Clinic student who wishes to voice disagreement with a case-related decision or outcome. It is not uncommon, for example, for one group of students to argue for a goal of rehabilitation and another group for demolition in the same case.

#### 4. Reflection

Among its many aims, the Clinic seeks to initiate in students a lifelong process of critical self-reflection and assessment.<sup>182</sup> Beyond the reflection that occurs in case rounds session and one-on-one faculty meetings, students complete four reflective writing assignments throughout the semester.<sup>183</sup> In the first assignment, the students must articulate learning goals for the Clinic semester. The final assignment ties back to the initial reflection, requiring students to both assess the evolution and satisfaction of those goals and to engage in a self-evaluation of the Clinic-related work they performed throughout the semester. Two intervening journal writing assignments prompts students to reflect on their own case-related experiences.

#### 5. Community Projects

Lastly, Neighborhood Preservation Clinic students work in two-person teams to plan and present workshops and training sessions designed to educate community representatives and groups about the causes and impact of neglected properties, the Tennessee

---

182. See Margaret Martin Barry, *Reflective Lawyering*, LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EXTERNS 145–47 (2d ed. 2007).

183. See generally William P. Quigley, *Reflections from the Journals of Prosecution Clinic Students*, 74 MISS. L.J. 1147 (2005).

Neighborhood Preservation Act, and the work of the Neighborhood Preservation Clinic<sup>184</sup> Utilizing community projects as a teaching and learning mechanism is a common feature of clinical education.<sup>185</sup> Beyond disseminating important information to constituencies beyond the walls of the law school and the courts, the students continue to hone advocacy and communication skills.<sup>186</sup> As they approach graduation, they also seize on opportunities to build their personal and professional networks. Among other programs to date, Clinic students have made multiple presentations to the Memphis City Council, administered “special topic” trainings to Memphis Code Enforcement, and provided updates and “know the law” workshops to neighborhood associations.<sup>187</sup> In this process, students also learn how to deal with pushback from entities ideologically involved in the process.

### III. POSITIVE OUTCOMES ABOUND: FOR STUDENTS, FOR SCHOOL AND FOR CITY

In a mere four semesters, the Neighborhood Preservation Clinic has emerged as a centerpiece of the blight-fighting effort in

---

184. Among their other responsibilities, Clinic students conduct workshops and training sessions designed to educate community representatives groups about the Tennessee Neighborhood Preservation Act, their casework in the Shelby County Environmental Court, and the causes and impact of neglected property. One student, raised in the Westwood neighborhood of South Memphis, presented a workshop to the Westwood Neighborhood Association. In addition to the workshop, the student coordinated and took part in a clean-up activity that brought together students and other community members. *See Westwood Students, Alumni Attack Blight at School*, WMC ACTION NEWS 5 (Apr. 23, 2016 5:57 PM), <http://www.wmcactionnews5.com/story/31800357/westwood-students-alumni-attack-blight-at-school> [hereinafter *Westwood Students*].

185. Margaret M. Barry et al., *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLINICAL L. REV. 401 (2012) (evaluating and explaining the pedagogical opportunities and challenges of incorporating community education projects into law clinic course).

186. *Id.* at 449 (quoting a law student who found that work a community education project enhanced her abilities “to use legal knowledge to aid and empower people and communities, create more opportunities and choices for people, develop the understanding that everyone is generally their own best judge of what they need, confidence, public speaking, listening, reflections, and respect for, and appreciation of, people and cultures.”).

187. *See Westwood Students*, *supra* note 185.

Memphis.<sup>188</sup> This has come without compromising the Clinic's dual mission to train future lawyers and zealously represent its client. In ways both foreseen and not, the Clinic has come to offer a student learning experience even more comprehensive than initially anticipated. Moreover, the Clinic has enhanced the Law School's program and reputation through its remarkable outcomes, and strengthened its relationship with the City as a result.

#### *A. Enhancing Student Learning*

At the outset of the Clinic semester, we communicate to students the seemingly straightforward goal of helping eliminate some of the risk posed by thousands of vacant and abandoned properties, which threaten the health and well-being of its citizens and neighborhoods. To do this, we explain that we will bring lawsuits against the property owners and ask the Court to certify the properties as public nuisances, which in turn requires the owners to submit and abide by plans to restore habitable conditions. If an owner successfully abates the nuisance, the City will dismiss the case. If an owner fails to comply at any point, whether before or after the nuisance certification, a receiver will be appointed to see through the abatement, either through demolition or rehabilitation. The path, prescribed clearly by the Neighborhood Preservation Act, is a seemingly straightforward one, in terms of both its relatively few steps and the clear end it is designed to attain.<sup>189</sup> As the students begin to handle their cases in earnest, however, they quickly realize that this is not the case.

Before successfully abating nuisance property, students must resolve issues and gain proficiency across the gamut of substantive law and procedure. The usual case will require a student to get their arms around multiple mortgage instruments and deeds, to investigate corporate structure and history, to research encumbrances on titles and interests of third-party lien holders, and to grasp questions relating to tax foreclosure and deficiency. In many instances, the

---

188. See Jim Strickland, *Mayor Strickland's Weekly Update*, MEM. COMMS. (Aug. 19, 2016, 3:47 PM), <https://content.govdelivery.com/accounts/TNMEMPHIS/bulletins/15e1fda> (regaling the vital role that the Clinic has played in the City's anti-blight litigation effort). See also text accompanying note 224.

189. See *supra* Part I.C.1 for a detailed discussion of the Neighborhood Preservation Act.

fallout from a bitter divorce, a sibling squabble, a fire, or a death present questions of family law, estate law, and/or insurance law that must be answered before a case can move forward. And, in every case, students must determine who needs to be put on notice, how, and when? Perhaps the greatest challenge is locating property owners and other interested parties and ensuring that they have been properly served at every turn. If our students have not yet recognized the importance of their prior law school courses—Business Organizations, Civil Procedure, Decedents’ Estates, Evidence, Family Law, Realty Transactions, and Secured Transactions—a semester in the Clinic reinforces it for them.

Beyond the ability to maneuver through a minefield of legal issues, the Clinic experience requires that students utilize an array of lawyering skills.<sup>190</sup> On a daily basis, students engage in fact investigation, develop case theory, and work as problem-solvers. As they go, they must build client relationships with the code enforcement professionals who monitor the condition of their litigation properties and a wide range of City-employed specialists, from land surveyors to structural engineers to public health officials, who can help them make their cases. At every point, students must effectively communicate with supervisors, opposing counsel and parties, and concerned community members. And in the Environmental Court each week, they must execute as oral advocates. Through it all, Clinic students must operate as efficient and organized managers of time and cases.

Perhaps most importantly, Clinic students learn that the road to positive outcomes in nearly all cases is paved with questions that implicate both how they identify their client from an ethical standpoint and what it means to be a lawyer whose work furthers a social justice mission. Right at the semester’s start, we ask students to consider the ethical obligations of a municipal attorney.<sup>191</sup> As under

---

190. See American Bar Association Section of Legal Education and Admissions to the Bar, Legal Education and Professional Development, *An Educational Continuum Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* 141–221 (1992). In what is commonly referred to as the MacCrate Report, the ABA identified ten skills and four values necessary for lawyers to assume “ultimate responsibility for a client.” *Id.*

191. See generally Steven K. Berenson, *The Duty Defined: Specific Obligations that Follow from Civil the Public Interest*, 42 BRANDEIS L.J. 13, 56 (2003); Geoffrey C. Hazard, Jr.,

the *Model Rules of Professional Conduct*, Rule 1.13 of the Tennessee Rules of Professional Conduct guides attorneys to engage government entities as organizational clients.<sup>192</sup> Neither that Rule nor others goes further to provide clarification as to how exactly an attorney is to identify the government client for the purpose of determining its duties to that client.<sup>193</sup> Rather, a comment to the Rule expressly cautions that “[d]efining precisely the identity of the client and prescribing the resulting obligations of such lawyers may be more difficult in the government context and is a matter beyond the scope of these Rules.”<sup>194</sup>

In ensuing discussion about this grey area, most students embrace the “public-interest-as-client” view, using terms like “the public-at-large,” “the community,” “neighborhoods,” and “neighbors” when asked to flesh out to whom the Clinic’s duty is owed.<sup>195</sup> A smaller group of students asserts the “agency-as-client” perspective, identifying Memphis Code Enforcement as the operation through which the City acts to address the blighted properties that become the focus of the Clinic’s litigation.<sup>196</sup> Reconciliation seems to come only when the students are reminded that the ethical rules do not themselves require resolution of the identification issue, that the Clinic’s client is the City in one form or the other, and that our duty is to zealously assist the City in addressing derelict properties that sit vacant and abandoned.

Still, as the semester progresses, this reconciliation can be harder for some students than others. Understandably, students can struggle to advance a lawsuit involving an elderly couple whose home was vacant and neglected for years, but nonetheless leads them to ask the court to permit a rehabilitation that would cost far more than the

---

*Symposium: Legal Ethics for Government Lawyers: Straight Talk for Tough Times: Conflicts of Interest in Representation of Public Agencies in Civil Matters*, 9 WIDENER J. PUB. L. 211, 222–23 (2000).

192. See MODEL RULES OF PROF’L CONDUCT r. 1.13(a)-(b) (AM. BAR ASS’N 2016); TENN. RULES OF PROF’L CONDUCT r. 1.13 cmt. 8 (2016).

193. *Id.*

194. TENN. RULES OF PROF’L CONDUCT r. 1.13 cmt. 9 (2016).

195. See Edris, *supra* note 149, at 524–25 (explaining the “public-interest-as-the-client” model of client identification in government representation).

196. *Id.* at 525–26 (explaining the “agency-as-the-client” model of client identification in government representation).



home is worth. Students can feel similarly conflicted in pursuing litigation against a church that has lost thousands of dollars already invested in and otherwise rendered unable to finish a rehabilitation project because of a swindling contractor who promised but never performed. These cases may motivate students differently than those involving an out-of-state bank, but the Clinic's ethical obligation to its client remains the same.

In wrestling with what appear to some to be exclusively ethical questions, however, students demonstrate the way in which the Clinic's work helps students to grasp the idea of lawyering for social justice objectives. Margaret Kwoka argues that "[t]eaching 'social justice' concepts . . . is to empower students to critically examine the way the law operates in society, rather than uncritically accepting legal outcomes—even legally compelled ones—as just outcomes."<sup>197</sup> Almost defensively, my early assertions about the Clinic's role in working on behalf of the public interest and toward social justice ends rested on the notion that the City brings suit on behalf of people and communities otherwise unable to afford legal recourse against blighted property owners: neighbors, children, nearby schools and churches.<sup>198</sup> But Kwoka's definition has helped me to appreciate that the Clinic's role in advancing a baseline understanding of social justice is much more significant. Clinic students realize that the practice of law rarely favors a one-size-fits-all approach. They see that, in nearly every case, discretion allows the attorney to at once abide by the governing law, the ethical obligations to the City, and the often-competing notions of compassion and empathy for the

---

197. Margaret B. Kwoka, *Intersecting Experiential Education and Social Justice Teaching*, 6 NE. U. L.J. 111, 118 (2013). Professor Kwoka opines further that "[s]ocial justice teaching is designed to provide students with an understanding of social problems that the law does and does not address and builds a vocabulary for them to discuss morality, ethics, and justice in relation to the law." *Id.*

198. See Hon. Thelton Henderson, *Social Change, Judicial Activism, and the Public Interest Lawyer*, 12 WASH. U. J.L. & POL'Y 33, 35 (2003) ("The prevailing view of the public interest lawyer is relatively narrow in scope. . . . [T]he circle of lawyers who serve the public interest can be viewed as much broader than we sometimes think. In the profession of law, the public interest is always implicated, and we mistake ourselves by assuming otherwise.").

people involved or affected—even the property owners.<sup>199</sup> Moreover, they learn firsthand that, as Sherry Batzer explains it, “government lawyers and their ‘clients’—government departments, elected officials, boards, agencies and commissions—make daily decisions that have a traceable impact on vulnerable, underrepresented, or formerly unidentified at-risk populations, as well as the public at large.”<sup>200</sup>

Over the semester-long course of their casework, the result is that students become more willing to explore different and creative pathways to achieving the end the City has asked us to attain. The high profile case might involve a student securing the appointment of a receiver to abate a well-known eyesore perpetuated over years by an unmotivated or unwilling owner.<sup>201</sup> Similarly impactful, however, would be the less “obvious” case involving an elderly owner who is found to be living in a garden shed outside of a home that is both structurally unsound and overrun by epidemic hoarding. Motivated by the owner’s willingness to work with the City toward a solution, the student attorney forms a strategy to reach out to the owner’s family and seek collaboration on a redevelopment plan that includes affordable steps along a realistic timeframe. Because the student takes into account conditions far beyond the property itself, the result is a rehabilitation that is approaching completion, a healthier defendant whose family is now more invested in the property and each other, and both a neighborhood and City that will benefit from a revitalized home instead of a demolished, vacant lot.<sup>202</sup>

---

199. In her article, *The Evolution of an In-House Government Law Clinic*, 12 T.M. COOLEY J. PRAC. & CLINICAL L. 381 (2010), Professor Sherry Batzer explains:

[Her] justification of the [in-house government law clinic] concept acknowledged that while a public sector law clinic may not always have an immediately discernible effect on particular individuals as they interact with systems, it has great potential to address the needs of entities that are directly charged with constitutional, statutory, ethical, and moral duties to operate in the best interest and for the betterment of the public at large or specific populations therein. The constituency ultimately benefits from the systematic, well-reasoned, and legally sound administration of government.

*Id.* at 391–91.

200. *Id.* at 390.

201. *See, e.g., infra* note 221 and accompanying text.

202. Reflecting on the impact that the student-driven, more collaborative case strategy can have, former Clinic student Jarrett Spence explained: “As with any treatment, the patient needs

Indeed, Clinic students repeatedly help to achieve and themselves benefit from a semester of outcomes like those discussed. As they help to address the problems imposed by blighted properties in Memphis, they learn about the City in which they live. They see the impact of their work, on individuals, on neighbors, on owners, on the City, and on so many others.<sup>203</sup> They leave the Clinic more prepared, more connected, and seemingly more committed to taking an active role in helping the City and its people once they transition into professional practice.<sup>204</sup>

### *B. Benefits to Law School*

Apart from its significant impact at the individual course level, the Neighborhood Preservation Clinic has also brought programmatic and reputational benefit to the University of Memphis School of Law, while further growing its already strong relationship with the City. At a time of heightened focus on and requirements for experiential coursework,<sup>205</sup> the Clinic has allowed the law school to grow its roster of in-house clinical courses without taking on the significant expense normally associated with doing so.<sup>206</sup> Because I was transitioning from direction of an already-existing clinic, the only new cost was the relatively low one to Steve Barlow as an adjunct professor to co-direct and co-teach the Clinic with me.<sup>207</sup> Further, the City underwrites all of the Clinic's litigation costs and certain related administrative outlays (for example, a devoted Clinic copier).

The Law School's investment in the Clinic and the work it continues to do for the City has led to other significant returns. In late

---

support, patience, and positivity to surround them. When we use the law to hold nuisance property owners accountable, we not only remove a blighted structure from a neighborhood, we replace it with hope—the most powerful community development tool of all.” Jarrett Spence, *Neighborhood Building in Memphis: A Strategy of Hope*, CEOs FOR CITIES (May 7, 2015), <https://ceosforcities.org/neighborhood-building-in-memphis-a-strategy-of-hope>.

203. See Lind, *supra* note 47 (describing the many parties impacted by abandoned properties).

204. See ABA STANDARDS, *supra* note 2.

205. See *supra* notes 2, 3, and 10, and accompanying text.

206. See generally Robert Kuehn, *Pricing Clinical Education*, 92 DENV. L. REV. 1 (2014) (considering the relative expense of creating and maintaining law school clinical courses).

207. Steve remains both a private practice lawyer and a part-time City of Memphis Staff Attorney.

2015, Memphis committed to funding a new City of Memphis-Law School Neighborhood Preservation Fellowship.<sup>208</sup> With proceeds from its Vacant Property Registry Fund, into which the owners of vacant, abandoned, and tax delinquent properties pay to register and have the City maintain those properties,<sup>209</sup> the City provided the Law School with \$150,000 to create a two-year attorney position based in the Clinic.<sup>210</sup> Under the terms of the funding agreement, the Fellow must be a University of Memphis School of Law graduate, preferably one who has successfully completed a semester in the Clinic or participated in the anti-blight litigation externship with the City of Memphis Law Division.<sup>211</sup> The Law School and the City announced the naming of the first Fellow in January 2016, and the Fellow, a former anti-blight litigation extern with the City, has further increased the Clinic's NPA case handling capacity and provides daily assistance to Clinic students on all aspects of Clinic cases.<sup>212</sup>

Finally, the Clinic's work has directly enhanced the Law School's reputation, locally and nationally. The Clinic's work consistently garners news coverage in Memphis and across the country.<sup>213</sup> Moreover, the Law School now stands front and center in the coordinated blight-fighting effort in Memphis, itself the subject of significant accolades.<sup>214</sup> In March of 2016, the Law School hosted the

---

208. Michelle Corbet, *City Adding \$150,000 to Blight Fight*, MEM. BUS. J. (Feb. 5, 2016, 6:00 AM), <http://www.bizjournals.com/memphis/print-edition/2016/02/05/memphis-adding-150k-to-blight-fight.html>; see also *Williams Hired for Blight Fighting Fellowship*, DAILY NEWS (July 8, 2016), <https://www.memphisdailynews.com/news/2016/jul/6/williams-hired-for-city-blight-fighting-fellowship/> [hereinafter *Williams Hired*].

209. See MEMPHIS, TENN., CODE OF ORDINANCES Nos. 48-24 to 48-27 (2013).

210. *Williams Hired*, *supra* note 208.

211. *Id.*; *Brittany Williams Named Neighborhood Preservation Fellow*, U. OF MEM., <http://www.memphis.edu/law/about/news/npc-fellow.php> (last visited on Nov. 6, 2016).

212. *Williams Hired*, *supra* note 208.

213. See, e.g., Karen Sloan, *Law Students Combat Urban Blight in Memphis*, NAT'L L.J. (Jan. 27, 2015); Felicia Bolton, *Mayor Wharton, Law Students File 1,000th Blight Lawsuit*, WMC ACTION NEWS 5 (Aug. 27, 2015, 4:07 PM), <http://www.wmcactionnews5.com/story/29897481/mayor-wharton-law-students-file-1000th-blight-lawsuit>; Lance Wiedower, *Memphis Law Students Help Shape City's Blight Fight*, HIGH GROUND (Jan. 14, 2016), <http://www.highgroundnews.com/features/BlightClinic.aspx>.

214. See Schilling, *supra* note 51.

Memphis Blight Elimination Summit.<sup>215</sup> At the Summit, Neighborhood Preservation Inc., a local non-profit devoted to the promotion of community collaboration to resolve complex legal issues around blight abatement and move nuisance properties back into productive use, rolled out the Memphis Neighborhood Blight Elimination Charter,<sup>216</sup> a comprehensive report “intended to serve as both a playbook and a game plan for current and future blight abatement actions.”<sup>217</sup> The Law School served on the steering committee of community partners that collaborated with Neighborhood Preservation, Inc. to prepare the Charter and, following its issuance, is now working to effectuate its call to action.<sup>218</sup>

### *C. Benefits to the City of Memphis*

Ultimately, the Clinic has allowed Memphis to drastically enhance its capacity to meet the challenge of neglected properties throughout its neighborhoods. Now into its fourth academic semester, thirty-two students have participated in the course. The Clinic has filed more than 200 lawsuits and today represents the City in more than 600 active Neighborhood Preservation Act cases.<sup>219</sup>

The Clinic’s efforts have also led to remarkable case outcomes. The following examples represent both the vast array of circumstances under which the Clinic’s cases arise and the inspired solutions crafted by the students to resolve them.

In a suit filed against a California corporation, the Clinic faced an owner that refused to appear in the Environmental Court or to abide

---

215. Madeline Faber, *Roadmap to Attacking Blight Awaits City and County Approval*, DAILY NEWS (Mar. 21, 2016), <https://www.memphisdailynews.com/news/2016/mar/21/roadmap-to-attacking-blight-awaits-city-and-county-approval/>.

216. See Neighborhood Preservation, Inc., *Memphis Neighborhood Blight Elimination Charter*, MEM. BLIGHT ELIMINATION SUMMIT (Mar. 17, 2016), <http://static1.squarespace.com/static/56ba157ab654f9986538a18c/t/56e9f94b86db430e409acfc3/1458174297659/Blight+Elimination+Charter+final+3-14-15.pdf>.

217. Neighborhood Preservation, Inc., *supra* note 73.

218. *Id.*

219. See Linda A. Moore, *City Tears Down Blighted Apartments Near I-240*, COMM. APPEAL (Aug. 18, 2016), <http://www.commercialappeal.com/news/government/city/abandoned-apartments-torn-down-by-city-of-memphis-3a4bae46-5340-61fe-e053-0100007f091e-390608491.html> (identifying Clinic students as the “heroes” of the effort that resulted in the demolition).

by its many orders to address the subject property's dangerous condition. The property was a vacant thirty-six building, multifamily residential apartment complex that hosted gang and drug activity and had been stripped of its habitability over a period of years. The assigned student attorney became a voice for an active neighborhood group, listening to their very real concerns and talking with them about the available options for recourse. Through a strategy focusing on criminal sanctions crafted by the student, the City was able to obtain an order that pierced the corporate owner's veil, sentenced the sole corporate officer and decision-maker to fifteen days in jail, awarded the City more than \$300,000 in judgments and fines, and, perhaps most notably, appointed the City as a receiver to demolish the apartments.<sup>220</sup>

The City filed suit against the Memphis-based owner of a hotel that had been vacant and blighted for decades. Situated at the base of a well-traveled bridge between Memphis and Arkansas, the hotel greeted and said good-bye to hundreds of thousands of travelers each year. Additionally, the hotel acted as a blockade, physically located between the historic French Fort neighborhood and the rest of the City. With the leverage created by a Clinic lawsuit, the Mayor was able to negotiate a settlement that led to the demolition of the hotel and a renewed faith among a neighborhood group long frustrated by what it characterized as the City's inaction to address one of its most long-standing examples of blighted property.<sup>221</sup>

The City secured an Order appointing it as receiver to demolish a sixteen-building, multi-family residential apartment complex that had been vacant for nearly a decade. Situated next to the Memphis International Airport and just off of Interstate 240, the major highway running through Memphis, the complex is known by most Memphians and many visitors to the city as a symbol of the local struggle with vacant and abandoned properties. Perhaps more remarkably, the complex abuts another fully-inhabited apartment complex, is directly next to a public middle school, and is just down

---

220. *Id.*

221. Meagan Nichols, *Vacant French Fort Hotel to be Leveled*, MEM. BUS. J. (May 4, 2016, 12:21 PM), <http://www.bizjournals.com/memphis/news/2016/05/04/vacant-french-fort-hotel-to-be-leveled.html>.

the street from a church. The owner, a hard-money lender based in Utah, owes taxes dating back to 2013 and totaling approximately \$90,000.<sup>222</sup>

Like most major cities, Memphis continues to fight an uphill battle on issues ranging from crime to the economy. As described by Memphis Mayor Jim Strickland, the Clinic remains a project that City leaders celebrate for its innovation and partnership:

If you've heard me give a speech in these past seven-plus months, you've probably heard me say that city government can't solve all of the city's issues alone. Our challenges are great; our resources are limited. That's why we spend so much time working with partners for creative solutions.

Enter the University of Memphis Cecil C. Humphreys School of Law's Neighborhood Preservation Clinic. In a one-of-a-kind partnership that started with my predecessor, Mayor A C Wharton, law students prosecute blighted property cases on behalf of the city. The apartment complex we started to tear down Thursday was one such case. Clinic students are now involved in some 600 cases on behalf of the city—600 that we may not have been able to get to otherwise.

Partnerships like this one speak to how I view my role as mayor. I want to lead city government to do everything it can to make Memphis better, and work with partners to keep the momentum going.<sup>223</sup>

#### CONCLUSION

Even as a true believer in the power and depth of law school clinical training, I could not have predicted just how rich and profound a learning experience the Neighborhood Preservation Clinic would prove to offer. Owed to both the distinctive focus of its work and the nature of the government client on whose behalf it is being

---

222. See Moore, *supra* note 221; see also Luke Jones, *Dilapidated Apartments Demolished Near Airport*, WREG MEM. (Aug. 18, 2016, 5:20 PM), <http://wreg.com/2016/08/18/dilapidated-apartments-demolished-near-the-airport/>.

223. See Strickland, *supra* note 188.

undertaken, students grapple with difficult questions of professional identity and responsibility, encounter a vast range of substantive and procedural areas of practice, and utilize an array of lawyering skills. They also immerse with the City around them in a very different sort of way, emerging with a better understanding of its neighborhoods, its people, and the myriad ways that lawyers can work for the public interest and toward social justice ends, whether or not representing a government client.

Unfortunately, even while the Neighborhood Preservation Clinic has so substantially affected students, the Law School, and the City, blighted properties are not unique to Memphis. As the country progresses in its recovery from the mortgage foreclosure crisis that peaked nearly a decade ago, cities across the United States remain afflicted with the abandoned and unmaintained properties that crisis left behind. Blight creates a culture of desolation all its own, spreading like the weeds on a vacant lot and affecting so much more than one specific property or owner.

Many law schools, like the University of Memphis School of Law, continue to struggle with limited resources to increase experiential learning opportunities in a manner that comports with the ABA Standards for Legal Education and the expectations of the practice community. Opportunities for collaborative partnerships between law schools and cities abound. The Neighborhood Preservation Clinic can and should serve as a model for clinical course expansion across the country. For all those taking up the mantle to fight blight, or countless other causes plaguing our communities, many rewards await.