

TESTIMONY

SB 84

**An Act concerning cities;
relating to the qualifications and rehabilitation of abandoned property.**

**Whitney Damron
On behalf of the
City of Topeka**

**Senate Committee on Commerce
February 5, 2015**

Good morning Madam Chair Lynn and Members of the Senate Committee on Commerce. I am Whitney Damron and I appear before you today in support of SB 84 on behalf of the City of Topeka. With me today is our City Manager, Mr. Jim Colson and City of Topeka Mayor Larry Wolgast. In the interests of time, they are not listed as conferees, but they are available to respond to questions the Committee might have following my remarks.

Due to the limited time for our hearing today, representatives of the City of Wichita and the Unified Government of Wyandotte County and Kansas City, Kansas deferred to me to present oral testimony today for the large cities who have been involved with this issue for the past few years. I encourage you to read their submitted remarks.

For a number of years the City of Topeka has worked with the Legislature and collectively with other municipalities in our state in attempts to address the issue of abandoned housing, blighted neighborhoods and the ill-effects they bring to our communities. In the City's 2015 legislative agenda, support for the legislation before you was included as one of its highest priorities for the year.

Legislation similar to SB 84 has been before the Legislature in the past, as Representative Frownfelter has been a tireless advocate for its passage. The bill before you today is the result of a great number of meetings by the parties of interest, including Representative Frownfelter, the Kansas Association of Realtors, League of Kansas Municipalities and individual cities, the Kansas Association of Counties, the Kansas Bankers Association and others.

SB 84 creates another opportunity for cities to deal with abandoned and blighted properties in their communities by allowing a city to seek through the courts the right to take possession of real estate that has not been occupied for the preceding 180 days and which has a blighting influence on surrounding properties (Page 1, lines 16-18).

During the 2014 interim, the Special Committee on Ethics, Elections and Local Government held hearings on the subject of abandoned housing. The City of Topeka arranged a tour of several vacant and abandoned properties that are typical of the challenges the City faces in this area. One home was located in a middle class neighborhood in Topeka (Westboro) and another was located in north Topeka in a neighborhood facing more significant economic challenges. A third property originally scheduled for a site tour was a commercial piece of property located in close proximity to a school, but that site visit was canceled due to time constraints.

City of Topeka representatives from law enforcement, public safety, code enforcement and the Mayor, City Manager and City Attorney were all present at these site tours and outlined the challenges these properties create for our community.

At the north Topeka location, public officials, neighbors and Topeka City Councilman T.J. Brown spoke about the challenges abandoned houses create for their community, including:

- Routine siting of criminal activity;
- Urban harvesting (metal theft);
- Unsafe structures for children;
- Reduced property values;
- Increased concerns for first responders (e.g., fire, police, etc., entering unsafe structures);

Included with my testimony is a copy of an article from the *Topeka Capital-Journal* highlighting the tour held on October 10, 2014.

Properties become abandoned for many reasons, including out-of-state landlords difficult to track down or force to maintain a property, foreclosure and repossession and death of the primary owner leaving non-resident heirs with difficulty in maintaining an aging property. Regardless of how or why a property became abandoned, its presence in a neighborhood creates problems for all of its residents, who are the real victims of abandoned housing.

Declining neighborhoods lead to homeowners leaving for better neighborhoods, causing former owner-occupied neighborhoods to become rental properties, which can lead to vacancies and deterioration of homes and property.

SB 84 is not a broad brushstroke approach to a problem that will solve all of our City's challenges in this area. However, it can be a positive influence and perhaps even save a neighborhood before further deterioration becomes irreversible. The City of Topeka envisions SB 84 to be something that local neighborhoods can look to in order to salvage one or more houses that are pulling an entire neighborhood down and perhaps stop the downward degradation of the area.

In closing, I would reiterate the fact that a judge stands between a City and a property owner at all times. Due process, including proper notice and even redemption of property rights are available throughout the process.

On behalf of the City of Topeka, we respectfully ask for your support of SB 84. As previously noted, City Manager Colson, Mayor Wolgast and I are available to respond to your questions.

Thank you.

WBD
Attachment

Topeka officials advocate new laws to help address vacant properties

Sublet: Neglected properties infringe on property rights of others

Posted: October 10, 2014 - 4:15pm



THAD ALLTON/THE CAPITAL-JOURNAL

Topeka officials on Friday stand outside 1110 N.W. Jackson St. with several members of a joint Kansas Legislature committee. The group visited two vacant houses in the city to illustrate the problem of addressing vacant, but not legally abandoned, homes.

By Aly Van Dyke

aly.vandyke@cjonline.com

Katrina Bayless knows the century-old house sitting across the street from her Topeka home has character. You can tell from the outside, with its odd angles and yellow paint, but her children even told her it has three secret passageways.

They used to play there with its former owners.

But that was about eight years ago, Bayless told state legislators Friday as they looked upon the dilapidated two-story home covered with ivy and rotting wood.

No one has been inside for years, she said. At least not legally, anyway.

Oh, Bayless sees people coming and going. Strangers, who don't stay longer than a couple of nights. Some stay only a few hours, doing she can only guess what inside. At one point, they carried away copper, but that is all gone now.

“It’s been everything from a flop house to a stash house for drugs,” said another neighbor, Steve Desch. “Everything valuable has been stripped out. It’s about time somebody should do something about it.”

Almost every neighborhood in Topeka has a house like 1110 N.W. Jackson — estimates put the figure at 400 vacant and unused properties throughout the city.

Yet the properties remain. Mowed, from time to time by the city. Notices posted on doors because listed owners couldn’t be reached. Overgrown vegetation. Boarded windows. Broken locks. Strangers. Fear.

The Jackson house and others are abandoned — by all definitions except the one that matters.

Many aren’t delinquent two years’ worth of property taxes, and as such, are outside the realm of the city’s limited actions.

For now.

Testimony

Advocates for a change in the law left Friday’s joint committee meeting with a plan to convene interested parties and find a solution in the form of a bill to be introduced this legislative session.

Several officials from Topeka and other municipalities testified for two hours before a special joint committee of the Kansas Legislature on ethics, elections and local government. Topeka officials took committee members on a tour of two vacant homes in the city to illustrate the problem. The home on N.W. Jackson was one of them.

The whole goal for the advocates Friday was to make their case: that vacant homes create a host of problems, from criminal activity to degraded property values, and current law doesn’t give municipalities enough ammunition to go after them.

On that front, Friday was a success. Members of the committee resoundingly agreed there is a problem.

“I hear no opposition today,” said Rep. Mike Kiergel. “The testimony makes a lot of sense, on the face of it. I believe most of us will be able to support some issue that will resolve some of this.”

Legislators heard from Topeka Police Sgt. Colleen Stuart, who spoke of the limited action police officers have when it comes to vacant properties. Officers can’t do anything without probable cause about a person entering a vacant home, but a neighbor who cuts down trees that have grown from years of negligence could face destruction of personal property charges.

Meanwhile, crime continues on the property, affecting neighborhood safety and demanding more law enforcement resources. A Department of Justice study cited in the city’s materials found blocks with unsecured buildings have 3.2 times as many drug calls, 1.8 times as many theft calls and twice the number of violent crimes than those without.

And fire investigator James Vollintine testified that 20 percent of fires handled by the Topeka Fire Department in the past three years were in vacant structures — resources that could have been devoted elsewhere.

“A significant number of abandoned and vacant properties within a municipality poses a significant challenge to fire department operations and community safety,” he said.

Searching for a solution

What was missing, members noted, was a solution.

“We have to have some solution that you’re advocating for,” Sen. Steve Fitzgerald, later asking, “Exactly what is it you want?”

One major need, Topeka city attorney Chad Sublet said, is changing the legal definition of abandoned. Current law states a property is abandoned if it owes two years of back taxes and has been vacant for at least 90 days.

Under that statute, someone can make any payment on the property — even just \$10 — and start the two year clock all over, Sublet said.

Yes, the city can put liens against the property. That doesn’t do much, if the entity paying the taxes is a mortgage company in California, he said.

“We could fine them every day,” Sublet said. “But we’re the city. Our jurisdiction is pretty limited. We continue to fine them, but it has no impact.”

And, yes, municipalities can, several years and multiple loopholes later, demolish buildings. But that leaves a vacant lot, which still has to be mowed, still attracts litter and the criminal element, still reduces property values, he said.

What cities need to be able to do, proponents said Friday, is act quicker on these vacant properties that are abandoned in every other sense but current state law. What they need to be able to do, advocates said, is make improvements on the properties and have an avenue — after several notice attempts and even a judicial review — to sell them with a clean title.

“We don’t have the ability to rehabilitate and resell these homes, so they just continue to become dilapidated and a problem for the neighborhood,” Sublet said.

Proponents could have an uphill battle in the Legislature, Fitzgerald said, particularly given the potential for a constitutionality question regarding property rights and due process.

Sublet repeatedly argued Friday that law changes would help protect the property rights of those who live near the vacant properties, while giving property owners more than the recourse they have now from other statutes involving property seizure.

“Their property rights should not be impacted by the willful, negligent or criminal acts of someone in a neighborhood,” he said. “A primary function of government is to preserve property rights of every sort. We’re not living up to one of our primary functions by ignoring vacant properties.”

Aly Van Dyke can be reached at (785) 295-1270 or aly.vandyke@cjonline.com. Follow Aly on Twitter [@alyvandyke](https://twitter.com/alyvandyke).