Stimulating Redevelopment by Clearing Tax Sale Titles
A Collective Impact Report by the Urban Neighborhood Initiative of Kansas City, Missouri

This report was prepared by the Urban Neighborhood Initiative’s Clear Title Taskforce. For additional information, please visit www.uni-kc.org.

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**INTRODUCTION**

On March 27, 2015, the Urban Neighborhood Initiative (UNI) sponsored a conference on vacant housing issues, pulling participants from a range of organizations including neighborhood associations, the City of Kansas City, Missouri (City), HUD, EPA, nonprofit and for profit financial institutions, social service agencies, community development organizations, developers, and faculty from the University of Missouri-Kansas City. Following that conference, UNI assembled a number of taskforce groups to study vacancy, blight, and abandonment throughout the urban core, with a specific focus upon the UNI target area of 18th Street to 52nd Street and from Troost Avenue to Prospect Avenue.

**BACKGROUND & THE COSTS OF VACANCY AND ABANDONMENT**

This paper suggests that working towards insurable tax titles is the most impactful avenue for reinvestment in vacant and distressed urban core properties. Title problems can prevent financing for needed investment and can prevent owners from realizing the full equity of their properties. Creating insurable tax titles would be a boon to Jackson County, Missouri (County), the City, and UNI Neighborhoods by stabilizing housing stock and property values; increasing sales prices and excess proceeds at tax auctions; and reducing expenditures for maintaining vacant and blighted properties. Based upon its research and analysis, the Clear Title Taskforce identified five strategies to improve the insurability of tax titles.

**FIVE STRATEGIES**

1. **Improve the Tax Foreclosure Process.**
   This report provides three main ways the tax foreclosure process can be improved to deliver buyers clean title post tax foreclosure. The first recommendation improves the way in which interested parties are identified in tax foreclosure by allowing the Collector the option to purchase title commitments to identify parties. The second improvement relates to the manner in which the parties are served, suggesting that personal service be attempted when feasible. The third way to improve the foreclosure process relates to proof of service and suggests filing an affidavit of service and incorporating served parties into the final judgment in tax foreclosure lawsuits.
Working towards insurable tax titles is the most impactful avenue for reinvestment in vacant and distressed properties in the urban core.

2. Amend Missouri’s Tax Foreclosure Statutes.
Title companies can be reluctant to insure tax titles because the state statute prescribing the foreclosure process has been effectively superseded by case law since its inception. Updating the state statutes to bring them into compliance with modern due process notice requirements could make it more likely that a title company would insure after a foreclosure.

There are options still to be explored on the private market to address this issue. State law provides an option for title companies to charge an increased fee for higher risk properties. That said, title companies are reluctant to embrace this option for fear of potential redlining. Private insurance companies see the need for insurable tax titles and are working to develop pools of capital to allow them to write these perceived “high risk” policies.

Kansas City and Jackson County can minimize the underwriters’ perceived risks associated with insuring a tax title, by making a commitment to defend any challenges to tax foreclosure for a given period. Local government may be able to handle this “re-insurance” in-house, or through contracting with a third-party reinsurer.

5. Increase Number and Efficiency of Quiet Titles.
One option for curing title defects is to file a “Quiet Title” lawsuit. These cases typically take a good while to move through the courts and can cost individuals several thousand dollars. We recommend that a separate docket be established to handle these types of cases, and that the work of volunteer lawyers and law students could be increased to cure titles on a case by case basis.
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INTRODUCTION

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This paper was drafted by UNI’s Clear Title Taskforce which has spent the last year and a half examining how title defects contribute to disinvestment and blight. This paper shows the nexus between title defects and blight, and proposes various strategies for improving the insurability of titles, specifically tax titles. While there are a number of social and policy contributors to blight, this report looks specifically at a process through which almost a thousand Kansas City properties pass through every year: tax foreclosure. This paper suggests that working towards insurable tax titles is the most impactful avenue for reinvestment in vacant and distressed urban core properties. Creating insurable tax titles would be a boon to Jackson County, Missouri (County), the City, and UNI Neighborhoods by stabilizing housing stock and property values; increasing sales prices and excess proceeds at tax auctions; and reducing expenditures for maintaining vacant and blighted properties.

BACKGROUND

What is Insurable Title?

Title insurance protects property owners and lenders against losses that can occur due to known or unknown liens, encumbrances, or defects in the title to a property. Typically, a buyer purchasing real estate is offered the opportunity to purchase an owner’s policy of title insurance at the real estate closing. The owner’s policy insures the owner has good title to the property free of any encumbrances or liens adversely affecting the property, except those known to the buyer.¹ The policy protects the owner if any such liens, encumbrances, defects, or other title problems become known. Almost all banks and mortgage companies also require an examination of the title

Creating insurable tax titles would be a boon to the County, the City, and UNI Neighborhoods by stabilizing housing stock and property values; increasing sales prices and excess proceeds at tax auctions; and reducing expenditures for maintaining vacant and blighted properties.
prior to closing, and will purchase a lender’s policy of title insurance to protect them in the event that there are any unknown liens or encumbrances on the title adversely affecting the lender’s ability to market or collect its loan.

For a one-time charge an owner can purchase a title insurance policy to be protected against a variety of potential title problems including:

- Unsatisfied mortgages
- Forged documents in the chain of title
- Signatures of mentally incompetent persons or minors which were unknown to the party reviewing the title
- Mistakes or inaccuracies in the recording or indexing of legal documents
- Undisclosed or missing heirs
- Invalid divorces or misrepresentation of marital status

Many vacant and abandoned properties suffer from at least one of these issues.

Depending on their appetite for risk or the size of the investment, an owner can decide to go without title insurance. They can also hire a lawyer and file a quiet title action, which can cost several thousand dollars and take up to a year. For extremely distressed properties with low values, quieting the title may not be economically feasible. Another possible option for the owner of uninsurable property is to hold the property for a period of time, typically the “adverse possession” term (ten years in Missouri), but potentially as long as forty years for properties saddled by unextinguished mortgage interests, at which point the title will most likely become insurable as liens become unenforceable over time. This process, like a quiet title action, also has its drawbacks, with an owner incurring years of holding costs with limited access to the property’s equity through a bank loan.

Kansas City, like many other cities across the country, suffers from a large number of tax foreclosed properties in the urban core. Though federal and state laws intend for clear title post-foreclosure, the reality is that procedures used during those foreclosures can create clouds rather than eliminate them.
Some buyers are surprised to find that the title to the property has not been wiped “clean” by the tax foreclosure sale.

Insurable Title as a Precursor to Development

Many see tax sales as an affordable way to purchase real estate. While typically in a more distressed condition than traditional purchases, a property may be purchased at the tax sale for hardly more than the outstanding taxes. A savvy purchaser would perform due diligence prior to bidding, which should include research into the pre-sale encumbrances on the property and the type and adequacy of notice provided to the owners of those encumbrances.

For the title to be insurable post-tax sale, the tax sale process needs to effectively wipe out the interests of not only the record owner of the property (i.e., the delinquent taxpayer), but also the interests of all persons or entities with a current legal interest in the property. Even if the purchaser of such property does not intend to obtain a loan to acquire the property, a future owner or developer may want to secure a loan for improvements to the property. No reputable lender will make such a loan unless the lender can obtain a lender's policy of title insurance.

Redeveloping a tax sale property can be a challenge. Some buyers are surprised to find that the title to the property has not been wiped “clean” by the tax foreclosure sale. This can come to light when the buyer attempts to obtain a loan on the property and the lender orders a title commitment showing the title to still be encumbered. In many distressed urban neighborhoods, like those located within the UNI boundaries, the additional cost of resolving title defects, coupled with depressed market conditions, can prevent rehabilitation from being economically feasible. The result is continued abandonment and declining housing stock.

The Law, Tax Foreclosure, and Title Defects

What is a Tax Title?

Before delving into the economic and social costs associated with vacancy and un-insurability, it’s important to provide an overview of the law guiding this area, as many of the proposed strategies hinge on understanding and altering some of this legal precedent.

The concept of property tax has been around for thousands of years. The method used to administer and collect property taxes varies widely throughout the United States. Generally, the type of tax sale a state uses can be understood in three different ways: as either in rem or in personam; lien sale or deed sale; and judicial sale or non-judicial sale. These categories help frame the problems associated with the tax foreclosure process.
First, the County conducts its foreclosure proceedings in rem, meaning it seeks a judgment for delinquent taxes against the property only, rather than seeking a personal judgment against the debtor. Second, the County is a “deed sale” jurisdiction. In this type of jurisdiction, a buyer at a County tax auction obtains title to the property, ostensibly free of all ownership interests and encumbrances. This process differs from the majority of other counties in Missouri that do not sell the property, only the lien, which an auction buyer can foreclose on within one year of purchase if the debt is not paid off. In the “lien sale” jurisdictions, the private buyer is responsible for foreclosure of the tax lien and providing Due Process. Many of the tax deed/insurability issues discussed in this paper would arise in these counties when the private lien buyer sends notice to foreclose on the lien. Finally, the County conducts its foreclosures judicially, meaning the process goes through a court system and is reviewed and confirmed by a judge. All properties included in County tax foreclosure sales are conveyed via a “Court Administrator’s Deed,” whether they are conveyed to a private buyer or a municipal holder of last resort like the Land Bank or the Land Trust of Jackson County, Missouri (Land Trust).

The County sells hundreds of properties a year for delinquent taxes. Through the process outlined above, buyers purchase these properties at a tax auction, by statute free of ownership interests and encumbrances. Yet, when efforts are made to purchase title insurance, many buyers learn they’ve only acquired “marketable” but not necessarily “insurable” title through the vesting “Court Administrator’s Deed.” The Court Administrator’s Deed carries no warranties or assurances as to the insurability of title.

Why Are Tax Titles Difficult to Insure?

As a general rule, title companies are skeptical of tax titles because of perceived and real defects caused by the Collector’s failure to comply with current state and federal law by failing to identify and provide adequate notice to all interested parties in the property. Inadequate notice of tax foreclosure holds the potential of rendering a tax sale void if challenged, making these titles a high business risk for the title insurance companies.

The challenges to tax sales and limitations to a jurisdiction’s authority to foreclose for delinquent taxes differ by state, but the most generally applicable challenge to tax foreclosure sales comes from the 14th Amendment to the US Constitution, which provides that no state shall “[d]eprive any person of life, liberty or property without Due Process of law.” This Due Process clause is interpreted to essentially mean that tax collectors are required to use their best efforts to inform interested parties of pending tax sales through a meaningful hearing.
No evidence exists that any tax foreclosure or Land Bank buyer has ever lost ownership of a property as the result of a former interest holder not receiving proper notice.

Much of the Due Process analysis that applies to tax sales stems from the 1983 Supreme Court case, *Mennonite Board of Missions v. Adams*. In *Mennonite*, the United States Supreme Court set out requirements that a government entity provide “notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” Relying on the Due Process requirements of the 14th Amendment and citing *Mullane v. Central Hanover Bank & Trust Co.*, the Court set out these notice requirements and struck down notice by publication alone as “not reasonably calculated to inform interested parties who can be notified by more effective means such as personal service or mailed notice.”

The Court went on to state that a mortgagee, as holder of a legally protected property interest, “is entitled to notice reasonably calculated to apprise him of a pending tax sale.” Constructive notice to a mortgagee through posting or publication alone was determined insufficient when other methods might work better to reasonably insure the party who is entitled to the notice actually receives it. In *Mennonite*, the Court held that “[n]otice by mail or other means as certain to ensure actual notice is a minimum constitutional precondition to a proceeding which will adversely affect the ... property interests of any party ... if its name and address are reasonably ascertainable.”

These cases, as well as *Jones v. Flowers*, collectively prescribed the following process for jurisdictions to effectuate Due Process in a tax foreclosure: (1) actual service (which can include refusal of service) must be accomplished upon every party with a legally protected interest in that property through either personal service or registered/certified mail; (2) if those attempts to serve are returned unsigned, the collector should take additional steps, including posting notice or providing notice to the owner or occupant through regular mail; (3) the foreclosure statute in Missouri also requires that the Collector advertise the sale in a paper of general circulation.

Unfortunately, the chapter of state law under which Jackson County conducts its tax foreclosures was drafted in 1945. The last significant Amendment to the tax foreclosure provisions occurred in 1982, a year before the *Mennonite* decision and twenty-four years before the *Flowers* decision, effectively rendering state foreclosure statutes obsolete.

Though these dated laws create the perception of risk, no evidence exists that any tax foreclosure or Land Bank buyer has ever lost ownership of a property following court confirmation as the result of a former interest holder not receiving proper notice. However, the risk of having to pay to defend a buyer against any of these potential failures of Due Process leads title insurance policy underwriters to take the position that tax sale deeds may not be insurable for at least ten years after the sale is conducted (i.e., the adverse possession timeframe), absent a successful quiet title action or other remedial measure.
COSTS OF VACANCY AND ABANDONMENT

This section looks at the problems and costs caused by vacant properties. As discussed previously, there are a variety of reasons why properties become and stay vacant and abandoned. This section looks first at the overall costs and then attempts to establish a nexus between costs related to uninsurable properties.

Strain on Municipal Services: Code Enforcement, Police and Fire Services

According to the City’s Planning and Zoning Department, there are approximately 18,000 total parcels identified as vacant within the City proper. An estimated half of those contain structures. These abandoned and vacant properties increase public expenses for City services and negatively reduce the quality of life for urban residents. In the last five years, the City paid almost $6.9 million to contractors for mowing and maintaining vacant properties. Between 2009 and 2013, the annual expenses to address problem properties more than doubled from $939,431 to $1,952,082. The City, increasingly, is required to do more with less: abandoned and vacant properties lead to decreased tax revenue and increased spending to remedy the public health and safety concerns presented by vacant properties.

To minimize the negative and often hazardous effects of vacant and abandoned properties, local governments expend funds on exterior maintenance (i.e., board-up, lawn mowing, trash removal, and demolition). In Kansas City, Missouri, city officials state that board-up expenses are roughly $750/per board up; $300/per lot/per year for lawn mowing; and demolitions average $9,500 per property. In addition, there are administrative and judicial costs associated with code enforcement and cities with housing courts spend funds enforcing these laws in the judicial system. Even when demolition is necessary, it brings its own set of problems including prohibitive costs for rebuilding residential units in depressed markets and municipal costs for maintaining vacant lots.

Studies also indicate a correlation between vacant properties and higher crime rates. Crime data in Pittsburgh, for example, found violent crime increased by more than 15% within 250 feet of a vacant foreclosure. Another study found that vacant property is among the strongest predictors of assault among a dozen demographic and socioeconomic variables. As a result, vacant properties require increased service costs on police, fire, and court systems. A recent study in Atlanta estimated between $1.67 and $2.96 million in costs between annual code enforcement, police and fire costs related to vacant properties.

There are approximately 18,000 total parcels identified as vacant within the City proper.
Studies show that vacancy produces negative impact on nearby property values.

In 2012, the Missouri legislature helped the City by authorizing creation of a land bank agency as a holder of last resort for unwanted tax foreclosed properties in the City. The Land Bank, after acquiring the property, undertakes efforts to stabilize, maintain, market, and sell the properties to interested investors. While a tremendous step in the right direction, the Land Bank takes longer to close transactions as a result of the tax foreclosure process, and its sales prices would be higher if it could guarantee clean, insurable title. The properties that do enter the Land Bank portfolio are often the most difficult to market having already been passed over by potential tax sale purchasers. The Land Bank is forced to spend part of its budget to maintain these properties, with additional costs for demolition sometimes the ultimate end.

Reduced Property Values for Neighboring Property Owners

Over the last decade, a great deal of research has been done studying the costs of vacancy and abandonment for the people living closest to those properties. As expected, these studies show that vacancy produces negative impact on nearby property values. Specifically, the most statistically significant effects occur within one city block, or within about 450-660 feet of the vacant and/or abandoned property or lot. One Ohio study found that, “each vacant property within 250 feet of a . . . home could decrease its sale price by about 3.5 percent,” or roughly $4,000 per property. In Flint, Michigan, a similar study concluded a vacant property could reduce nearby home prices by about 2.27 percent. Both studies also show that depreciation can be exacerbated by the number of vacant properties on a given block. A recent study in Atlanta calculated that between $55 million and $153 million in property values is lost due to vacancy and neglect. As a result, tax revenue from depreciated property values is reduced between $985,000 and $2.7 million per year.

The depressed value of vacant property leads to lower property tax assessments, which, in turn, leads to a reduction in the tax base and the corresponding tax revenue. This decreasing revenue cycle imposes a substantial impact locally as property taxes remain one of the largest sources of tax revenue under local control.
Vacancy and foreclosure depress local tax revenue in four specific ways:

1. Urban core property in particular more frequently becomes tax delinquent, as the cost of paying the property taxes often exceeds the property’s value;

2. Even if taxes are paid, low property value translates to little tax generation (and reduction of tax revenue from lowered property values of neighboring properties);

3. Tax revenue is lost due to demolition of structures, and

4. Lost revenue on municipal utility bills.\(^25\)

We next turn our attention to estimating how much tax revenue is lost as a result of vacant and distressed properties.

**Reduced Tax Revenues and Increased Costs to Jackson County**

Data collected from Jackson County showed that as of July of 2016, there were a total of 26,800 tax delinquent parcels costing the County and the other taxing jurisdictions over $46 million in uncollected tax revenue.\(^26\) Not all of these parcels were vacant, nor will all go the full three years delinquent triggering tax foreclosure, yet the number indicates the sheer volume of lost tax revenue represented by delinquency. On average, for each of the last five years the County initiated tax foreclosure proceedings on more than 1,000 parcels per year.\(^27\)

By the time of tax sale, approximately half of the parcels are purchased at auction with the unsold half going into the Land Bank or the Land Trust of Jackson County, Missouri (holder of unsold tax auction parcels within Jackson County but outside the City). For example, in 2015, the County collected $1.15 million in delinquent taxes, penalties, and fees through the sale of 480 parcels out of a total of 902 being offered for sale for delinquent taxes.\(^28\) The remaining 422 generated no tax revenue and were transferred to the Land Bank or the Land Trust, where they continued to remain off of the tax rolls, at least for a period of time.

The tax value for the unsold parcels is difficult to approximate, but even if the value of the unsold parcels was half of the value of the revenue generated by the sale, then those unsold parcels represent more than a half of a million dollars in uncollected revenue each year. When that same value is applied to the 4,344 parcels currently

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**Utilizing tax foreclosure to deliver better quality of title would likely increase the amounts tax-sale buyers would be willing to offer—allowing the County to collect more tax revenue.**

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owned by the Land Bank, these parcels potentially represent more than $5 million in taxable property values. Utilizing tax foreclosure to deliver better quality of title would likely increase the amounts tax sale buyers would be willing to offer, allowing the County to collect more tax revenue. At the same time, better title would increase the odds that the Land Bank or the Land Trust would be able to more quickly transfer title to a qualified buyer, reducing the amount of time those parcels stay off of the tax rolls.

Delinquent tax sales bring additional revenue to the County and other taxing jurisdictions through excess proceeds. The County starts the bidding for delinquent tax parcels at the amount owed for delinquent taxes plus interest, penalties, and legal fees. Competitive bidding results in a final purchase amount often times exceeding the required minimum bid. Under statute, owners or interest holders have the first right to collect those excess proceeds. Regularly, however, these amounts go uncollected and escheat to the taxing jurisdictions, including the County. If the tax foreclosure process delivered clean title, it’s likely that the parcels that do sell could fetch a higher sales price, and increased bidding could also bring in higher amounts of excess proceeds.

The Clear Title Taskforce ran analyses for this paper tracking all tax sale parcels between 2011 and 2015 and the statistics reveal a correlation between tax delinquent parcels and blight. During this period, the County conducted a foreclosure sale for approximately 4,200 parcels of land. Of those offered for sale, only about 1,876 parcels were sold to auction buyers. Property taxes were never recovered for the remaining 2,323, as those parcels were transferred to either the Land Bank or the Land Trust.

Although taxes were collected for those 1,876 parcels, these transfers did little to help stabilize the City’s housing market. Most of these parcels (88%) have been cited for violation of the City’s nuisance or property maintenance codes at some point in time between 2011 and 2015. Currently, 40% of these properties are in violation of housing code. The nuisance conditions related to tax foreclosed parcels also appear much more difficult to resolve. Code violations for parcels sold at tax foreclosure were open for 661 days on average, compared to 394 days for other properties city-wide with code violations. Tax auctioned parcels with code violations also averaged more code violations per address than non-foreclosed nuisance properties, by a ratio of 22/address to 8/address.

Costs of Vacancy & Abandonment: Reduced Tax Revenues and Increased Costs to Jackson County
The Clear Title Taskforce ran analyses tracking all tax sale parcels between 2011 and 2015—the statistics reveal a correlation between tax delinquent parcels and blight.

<table>
<thead>
<tr>
<th>2011-2015 Tax Foreclosures</th>
<th>Sold at Tax Auction</th>
<th>Transferred to Land Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Parcels</td>
<td>1,876</td>
<td>2,323</td>
</tr>
<tr>
<td>Linked to Code Violations</td>
<td>1,646</td>
<td>1,794</td>
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<tr>
<td>% Linked to Code Violations</td>
<td>88%</td>
<td>77%</td>
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<tr>
<td>Currently Open Violations</td>
<td>756</td>
<td>205</td>
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<tr>
<td>% Linked to Currently Open Violations</td>
<td>40%</td>
<td>9%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2011-2015 Tax Foreclosures</th>
<th>Sold at Tax Auction</th>
<th>Transferred to Land Bank</th>
<th>All Other Non-Code-Compliant Parcels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days Code Violations Remains Open (mean)</td>
<td>661</td>
<td>547</td>
<td>394</td>
</tr>
<tr>
<td>Violations Per Parcel (mean)</td>
<td>21.8</td>
<td>13.1</td>
<td>8.3</td>
</tr>
</tbody>
</table>

One final piece of data, repeat tax sales, is particularly indicative of the cycle of disinvestment that can be exacerbated by tax foreclosure. Though five years of data is a relatively small sample size considering that a property must be delinquent three years before tax foreclosure can be initiated, more than 56 parcels went through tax foreclosure multiple times during this time period, meaning the Collector went through the timely and costly process of tax foreclosure twice for the exact same property. Since the first year of our analysis, 8.4% of all the tax foreclosed parcels have gone through tax foreclosure at least twice, a number likely to increase as time passes.30
Purchasing title commitments at some point during the foreclosure process would ensure all parties with an interest in the property are identified.

STRATEGIES FOR INSURABILITY OF TAX TITLES

Strategy #1: Improve the Tax Foreclosure Process

Identifying Interested Parties

The quality of title resulting from a tax foreclosure sale greatly affects not only the value of that property, but also the likelihood of it being successfully rehabilitated. Purchasing title research to use in reviewing and determining who actually holds legal interests in the property so to give appropriate notice to those parties is one minor investment that would go a long way towards making tax titles insurable. Purchasing title commitments at some point during the foreclosure process would ensure all parties with an interest in the property are identified so proper notice can be given.

Currently, the Collector uses in-house staff that searches public records as an ad hoc title search on all tax sale properties. Delinquent tax sales, by their nature, often include many distressed properties that are likely to suffer from various title defects (i.e., deceased owners, unreleased mortgages, judgment liens, etc.). Purchasing title work, en masse, would likely save the Collector a significant amount of staff time and increase the accuracy of identifying interests and title defects in each property. Purchasing title commitments could be done for all properties, or limited to properties where County title examiners believe there is a strong probability they will not be able to identify all necessary parties. Further, with a few small changes to the foreclosure statute, the cost of the title reports could be added to the minimum bid, making those expenses recoverable in some cases.

After foreclosure is complete, the same title company that provided the commitment would then be in position to insure the property upon proof that all interested parties were properly notified of the foreclosure. Outsourcing this research will save the County costs in staff and time, which would offset the expense of purchasing title commitments, and deliver a more insurable title at auction, likely resulting in increased sales for higher amounts, and presumably, with increased excess proceeds.

Without purchasing a title commitment, the County can still improve its process by utilizing better tools for identifying and locating necessary parties to tax sales. A number of services exist to track individuals and mortgage companies. Westlaw’s CLEAR, Lexis Nexis’s Accurint, Payoff Assist, or MERS, if not already utilized, could help the Collector to locate all of the interested parties.
At tempting personal service, at least when the owner is located locally, will help assuage title company concerns about proper notice being given to the interested party.

**Serving Interested Parties**

Not only must the Collector identify all parties with a legal interest in the property, it must also provide those interested parties notice in a manner that is “reasonably calculated under all the circumstances to apprise interested parties of the pendency of the action.” Personal notice of lawsuits guarantees actual notice of the pendency of a legal action, and has traditionally been deemed necessary in most types of lawsuits, though less rigorous notice procedures have been accepted for tax foreclosures in light of some of the practical obstacles to providing personal service in every instance. The reasonableness standard for notice all but requires a title examiner to inspect the foreclosure on a case-by-case basis and make a determination as to its adequacy, adding to the risk that a foreclosure could be challenged at a cost to the title insurer.

There are a number of practices the Collector could pursue that would help assure that at the very least the reasonableness test was met. Attempting personal service, at least when the owner is located locally, will help assuage title company concerns about proper notice being given to the interested party. Once all parties are identified, the Collector could contract with special process servers to attempt personal service, or even utilize its own staff, who already enter the field to post notices on properties, to attempt personal service by knocking on doors.

**Proving Service**

After taking these steps to improve the identification and service of interested parties, an affidavit can be filed in each case verifying the steps taken to effectuate service in accordance with case law and the local rules. In addition, the Court should enter a finding into its judgment that service was adequate.

**Strategy #2: Amend Missouri’s Tax Foreclosure Statutes**

As previously discussed, the notice requirements of Missouri’s Chapter 141 foreclosure law pre-date important case law on the Constitutional requirements for notice of tax sales. Frank Alexander, a prolific author on the subject of foreclosure reform suggests three provisions in tax foreclosure laws, which should lead to insurable titles free from all liens and encumbrances.
Those recommendations are:

1. **“Shift to in rem foreclosures.”** Missouri is an in rem state already, so no reformation is required here.

2. **“Create judicial tax foreclosure proceedings.”** Missouri is a judicial foreclosure state so no reformation is required here.

3. **“Provide for constitutional adequate notice.”** Out of date statutes frequently result in a failure of Due Process violation, and “the resulting lack of constitutionally adequate notice is the primary reason that tax foreclosed properties are considered to have title defects,” with serious limits on marketability and insurability. Mr. Alexander goes on to say, “states can revise their property tax foreclosure laws…to ensure compliance with constitutional standards. Missouri’s tax foreclosure statute was written in 1945, and does not, on its face, require Mennonite notice.”

Amending Chapter 141 will update the Constitutional notice provisions of Jackson County tax foreclosure laws to comply with Mennonite and its progeny. The proposed revisions provided in Appendix C are modeled off Georgia’s statute, which was drafted in part by counsel for First American Title Company, and has improved the insurability of tax titles in that state.

If passed, these proposed changes will place Missouri in compliance with all three of the recommendations noted above leading to insurability, and should render insurable not just Land Bank titles, but nearly all properties sold for delinquent taxes in Jackson County.

Insurable tax titles could help save the County and the City millions in tax revenue spent on vacant and abandoned properties, and most likely bring in millions to the County and City in lost tax revenue; a long-term gain for both. Despite this there is some reluctance to embrace a statutory change.

These defenses come in two main arguments:

1. The Mennonite standard is met in practice;
2. Opening up the statute could lead to changes in tax foreclosures for the County in unintended ways.

In response to the first argument, judges at confirmation hearings apply only state law, unless a defendant properly raises Due Process issues. To the second point, unintended consequences from the legislature are unlikely if a coalition of forces can support the concept. In 2012, the tax foreclosure statute was opened up to authorize the establishment of land bank agencies. Those Amendments were made without unintended consequences.

One additional statutory change might help reduce some risk for title underwriters. Current law limits interest holders in tax foreclosed properties to one year from the date of the tax sale to set aside the sale after the transfer of title is recorded. This statute could protect buyers of tax sale properties if it were amended to include an unjust enrichment defense, preventing a pre-tax sale interest holder from reclaiming the property, and limiting a claimant’s award to the value of the property at the time of the tax foreclosure as defined by its purchase price at the tax auction. Proposed statutory changes are included in Appendix D.
Strategy #3: Encourage Development of New Private Products for Tax Titles

Another approach to insurability involves exploring private market alternatives allowing title companies and their underwriters to insure a higher risk tax title. Implementation of high-risk insurance premiums on tax sale properties will incentivize title insurance companies to take on the risk surrounding these transactions.

With the exception of Iowa, states approve title insurance premiums in one of two ways. “Inclusive” states allow insurers to charge a premium encompassing both the cost of insurance coverage (risk component) and the costs associated with the background search process and ancillary services performed during the title process. “Separation” states do not combine these functions meaning a premium is charged by the insurer to cover the risk component only, while additional fees are assessed separately to cover the background search and ancillary services.

Missouri is a “separation” state so the insurance premiums charged are not only regulated by the State; they only cover the cost of insurance coverage. While title insurers are allowed under Missouri law to perform the background search and ancillary services, the unregulated title agents representing the insurer(s) perform the majority of these functions. These agents can only perform the background search and ancillary services and are not allowed to handle the insurance coverage. In Missouri, only title insurers can handle the insurance coverage and the State requires title companies to serve only the title insurance market. They are not allowed to handle other lines of insurance.\(^{39}\)

No other title participants (attorneys, abstractors, escrow/settlement agents, etc.) are allowed to handle title functions within Missouri.\(^ {40}\) While title insurers and agents are required to be licensed under Missouri law, only the insurers are regulated. Missouri oversees title agent licensing procedures but they are not regulated, so agents are free to charge whatever rate they feel is appropriate for the services provided.\(^ {41}\) The below chart outlines the current title insurance market structure for Missouri.

<table>
<thead>
<tr>
<th>Services Offered</th>
<th>Title Insurers</th>
<th>Title Agents</th>
<th>Attorneys</th>
<th>Abstractors</th>
<th>Escrow/Settlement Agents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurance Coverage</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Policy Production/Issuance</td>
<td>Yes</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Title Search or Abstract</td>
<td>Yes</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Examination of Title</td>
<td>Yes</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Clearing Title Defects</td>
<td>Yes</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Escrow &amp; Closing</td>
<td>Yes</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Is Entity Regulated?*</td>
<td>Yes</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Is Licensing Required?</td>
<td>Yes</td>
<td>Yes</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

*If a title insurance policy is issued within Missouri, the State regulates all of the services listed above except for clearing title defects.

Table A: Missouri Title Insurance Market
Most title insurance companies appear to have made the business decision that tax sale titles are not worth insuring because of the extra risk and low reward.

It’s helpful to understand how title insurance rates are created. Essentially three key components form the total premium (overlaid by a 4th factor). The first component, the Profit (or Lode) is typically 5-6% of the total cost of the title insurance premium, going to the insurer. Expenses, the second component, are administrative in nature and they can be shared between an insurance company and its agents. The final component involves the Loss Factor, which is usually based upon the historical losses an insurance company has paid on policies previously resulting from lawsuits. A Relativity Curve, reflecting the difference in the value of insured properties, overlies these three components. Premiums increase as properties become more valuable because the potential insured loss becomes greater.

The title insurance statutes are available on the Missouri Insurance Department’s website. Missouri requires insurers to file their rates and once filed, they can be used if not disapproved within 30 days. The State’s statutory standard for rate adequacy requires that premium rates not be excessive, inadequate or unfairly discriminatory.

The National Association of Insurance Commissioners (NAIC) supports the SERFF Filing Access Database, a centralized repository of insurance company filings, by state. The Missouri Insurance Statutes allow title insurers to charge high risk premium rates. A review of the NAIC SERFF Database shows the standard rates being charged by all of the registered Missouri title insurers. Specific filings for high risk rates do not exist although several companies reserve the right to charge higher rates should circumstances justify a higher premium.

The SERFF database reveals a large percentage of Missouri-regulated title insurers charge the same rate for property values under $100,000.00. Fees start to differ by insurance company once property values cross the $100,000.00 threshold (the only exceptions found are American Guaranty Title Insurance Company, Investors Title Insurance Company and Old Republic Title Insurance Company).

The illustration for Chicago Title is shown on the next page in Table B using its rates for Original Title Insurance for Loan Policies. There is particular focus on this rate schedule as contractors likely want clear title when they buy a tax foreclosed, vacant property knowing they’ll eventually sell the rehabbed home(s) to consumers or investors needing title insurance (the assumption is buyers will borrow money to purchase a rehabbed house). Note the influence of the Relativity Curve as the value of a property increases.

Most title insurance companies appear to have made the business decision that tax sale titles are not worth insuring because of the extra risk and low reward. One potential solution is for title insurers to charge a higher premium for tax sale properties. This might be accomplished through work groups with underwriters and the Missouri Department of Insurance.
Stimulating Redevelopment by Clearing Tax Sale Titles

Table B: Chicago Title - Original Title Insurance for Loan Policies Fee Schedule

<table>
<thead>
<tr>
<th>Property Value</th>
<th>Original Title Insurance for Loan Policies</th>
<th>Effective Title Insurance Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Risk Amount up to $50,000 liability written</td>
<td>$1.00 per $1,000</td>
<td>$50.00</td>
</tr>
<tr>
<td>Over $50,000 and up to $100,000, ADD</td>
<td>$0.80 per $1,000</td>
<td>$90.00</td>
</tr>
<tr>
<td>Over $100,000 and up to $5,000,000, ADD</td>
<td>$0.70 per $1,000</td>
<td>$195.00*</td>
</tr>
<tr>
<td>Over $5,000,000 and up to $10,000,000, ADD</td>
<td>$0.60 per $1,000</td>
<td>N/A</td>
</tr>
<tr>
<td>Over $10,000,000 and up to $15,000,000 ADD</td>
<td>$0.50 per $1,000</td>
<td>N/A</td>
</tr>
<tr>
<td>Over $15,000,000 and up to Infinity, ADD</td>
<td>$0.24 per $1,000</td>
<td>N/A</td>
</tr>
<tr>
<td>Minimum Premium</td>
<td>$10</td>
<td>$10</td>
</tr>
</tbody>
</table>

*The illustration stops at a $250,000 valuation as most rehabbed, tax sale homes within the urban-core sell for significantly less than this amount.

Table C: High Risk Tax Foreclosure Title Insurance for Loan Policies

<table>
<thead>
<tr>
<th>Property Value</th>
<th>Original Title Insurance for Loan Policies</th>
<th>Effective Title Insurance Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Risk Amount up to $50,000 liability written</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Over $50,000 and up to $100,000, ADD</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Over $100,000 and up to $500,000, ADD</td>
<td>$20.00 per $1,000</td>
<td>$5,000.00*</td>
</tr>
<tr>
<td>Over $500,000 and up to Infinity, ADD</td>
<td>Negotiated</td>
<td>Negotiated</td>
</tr>
<tr>
<td>Minimum Premium</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

*The illustration stops at a $250,000 valuation as most rehabbed homes within the urban-core sell for significantly less than this amount.
There is precedent within the market for supporting the illustrated rate schedule on the previous page (Table C). Title Bridge, LLC, based locally, offers a “Tax Sale Certificate” as a type of reinsurance program to offer underwriters some protection if a claim arises from the tax sale. Their minimum fee is $1,395.00 and increases depending on the property’s value. Most tax foreclosed properties initially sell for less than $10,000 prior to rehabilitation and buyers of tax sale properties might be willing to pay a higher premium amount to eliminate the uncertainty, time, and cost involved with quieting the title.

A national company, Tax Title Services (TTS), based in Newport Beach, CA offers a similar “Foreclosure Due Process Certification.” Their website states, “The certification TTS issues validates the accuracy and completeness of the tax lien foreclosure Due Process in order for our title insurance partner underwriters to feel comfortable issuing a title insurance policy on tax deed properties.” The minimum $2,000.00 fee illustrated in Table C above is in line with the fee as shown on the TTS website.

One concern with TTS is that they are not a title insurance company and they depend on separate underwriters to write their policies once TTS certifies the foreclosure process. In some localities they appear to have been able to identify a title underwriter, but as of this paper, they have not found a partner willing to work with them in Missouri.

Meridian Title Corporation, based in Indiana, is another national company that offers their own type of “Certificate.” Meridian though is slightly different, as it is itself a licensed title insurance company and can issue the title policy based on their own “Certificate.”

All three companies are premised on the idea that the risk of litigation from a tax sale is minimal. However, the currently approved rate schedules in Missouri don’t align with the potential costs should a case go to trial. This could be solved easily if the insurer was able to justify charging a higher rate. The justifications would be that tax titles require more investigation and may involve a higher risk.

The City and the County may also be able to incentivize title companies to take on more risk by leveraging the sheer volume of title work needed by local government into an exclusive contract with a title company for a given period of time. Perhaps a title company might be willing to take on riskier properties if they had an exclusive contract to also handle other types of less risky title work.

**Strategy #4: Government Backstops**

Another approach to make tax sale titles insurable is modeled from other types of government backed/provided insurance elsewhere (i.e., hurricane coverage for residential properties in Florida, government sponsored/assisted hail insurance in Montana and Saskatchewan, etc.). This idea would require municipalities to contract with title companies to “guarantee” their own tax foreclosure sales in some manner. Under this arrangement, the County, the City, a division of either, or a special purpose entity (e.g., the Land Clearance for Redevelopment Authority (LCRA)), would backstop underwriters for potential losses, limiting the underwriter’s exposure to risk and allowing a title insurance policy to be issued over any perceived tax foreclosure defects.
Public option approaches received support at the City Council level and have gained support from title underwriters.

A government entity could backstop title insurance underwriters by guaranteeing to defend or by contracting and paying a third party to defend, any challenges to title resulting from tax foreclosure for the ten year adverse possession period. This would limit the title underwriter’s perceived cost of exposure, allowing them to issue a policy knowing that any challenges, warranted or not, would be handled by the government. In many ways, the County would be the ideal party to defend its own tax foreclosure processes from any challenges. As mentioned, successful challenges to set aside confirmed tax sales following the issuance of a County Court Administrator’s Deed are largely nonexistent. The Collector conducts sales based upon a search of its own records, and the foreclosure hangs on the Collector’s own process for providing notice. For every foreclosure, the Collector is already in possession of records of its attempts to serve process, and is therefore uniquely positioned to defend any challenges to its process.

In the event a challenge is presented, government entities could potentially protect themselves in several ways: first by defending or paying claims to challengers (essentially meaning that either the City or the County would self-insure), or; municipalities may be able to utilize their eminent domain authority to condemn any unaccounted for interest as a blight to title, for the public purpose of redevelopment.

The Missouri Constitution limits the types of sovereign immunity local governments can waive and accordingly, the type of liability it can assume on behalf of others. The Missouri Constitution also prohibits local governments from assuming unquantifiable debt. Thus, if a local government were to agree to re-insure tax titles itself, it may be necessary to identify the costs of risk through actuarial tables and cap their losses at the total value represented by tax sales, or to limit the backstop to a test pool containing a specific number of properties. Another potential work around to the prohibition against indemnity would require a local government entity to contract with a third party reinsurer to defend any post-confirmation challenges. Costs to protect against potential losses can be generated by increased registration fees for Land Bank or tax sale buyers. Additional funding for a loss reserve pool could conceivably be pulled from a percentage of collected premiums from other title insurance sales throughout the state. These public option approaches received support at the City Council level and have gained support from title underwriters, though a question remains as to whether a backstop would be acceptable under state underwriting standards.

One final public option may be for the state to consider the Iowa model, issuing title insurance policies itself. This final option would require a fairly sizeable overhaul of state statutes to allow government to overtake this function.
Encourage the Circuit Court to create a dedicated “Problem Property Docket.”

of underwriting. Though this approach is most likely unfeasible politically, the perceived involvement by government competing in this market could encourage private insurers to consider other reforms.

Strategy #5: Increase Number and Efficiency of Quiet Title Actions

Throughout this paper the quiet title action has been referenced. This section discusses how this tool, which is currently one of the most effective options for dealing with tax titles, can be expanded and expedited to be used more effectively and efficiently on a larger scale.

Quiet title actions are lawsuits brought in circuit court to clear a party’s title to real property. Their purpose is to eliminate all claims to title which might stand in the way of a title insurance company issuing a title insurance policy. Documents, claims or unreleased liens and encumbrances are all “clouds” on title. By bringing a lawsuit and naming and serving parties that may hold an interest in the property, including parties missed by error or omission in the foreclosure lawsuit, a quiet title action can effectively clear any clouds on title.

On average legal fees for a quiet title action can range between $1,500 and $3,000 per property, and it can take at least six months before a judgment renders the title insurable. Section 141.1009 of the Land Bank enabling statute authorizes a special quiet title action for the Land Bank, enabling it to place more than one property in each lawsuit.

In the fall of 2015, the University of Missouri-Kansas City School of Law (UMKC), in conjunction with the Land Bank, began offering a class to second and third year law students to quiet Land Bank titles using this statute. This clinic, which is a for-credit practical skills course, sets a goal of providing students experience drafting petitions and spending some time in court.

Legal Aid of Western Missouri and the Land Bank are partnering to teach a quiet title seminar in an effort to solicit pro bono attorney services. Legal Aid built quiet titles into its “Adopt a Neighborhood” Project where firms can receive pro bono credit for handling quiet title cases in target areas. Eventually, this joint effort could result in about 150 or so insurable titles per year.

One final option is to encourage the Circuit Court to create a dedicated “problem property docket” for quiet title and other related cases that will help get these properties through the Courts more efficiently.
CONCLUSION

The strategies in this paper provide a range of solutions; some can be executed rather quickly while other strategies may take years to fully implement. Some strategies, like improving service upon all interested parties, could require a significant expense. While other proposals may be more affordable, they may be more politically challenging, potentially requiring statewide statutory changes. The strategies put forth in this paper also require the private market to work more closely with the public sector to explore potential solutions to everyone’s benefit.

The UNI and its Vacant to Vibrant Collective Impact Initiative will continue to work with local stakeholders to solve the problem until these or other reforms are implemented.
A title commitment is a title company’s commitment to issue a title policy (owner’s and/or lender’s) upon the transfer of title to the property.


4. The Land Bank of Kansas City, Missouri (Land Bank) was created by the City via Committee Substitute for Ordinance No. 120779, adopted by the City Council on September 20, 2012. The Land Bank was formed to manage, sell, transfer and dispose of interests in real estate owned by it for the purposes of, among others, creating revitalization of deteriorating residential, retail and commercial neighborhoods and safe, decent and affordable housing for existing and future residents. Properties that are not purchased by private buyers at County tax foreclosure sales are conveyed to the Land Trust of Jackson County, Missouri, which then conveys foreclosed properties located within the City limits to the Land Bank. See KANSAS CITY, MO., CODE OF ORDINANCES §§ 74-70 to 74-91 (2017); MO. REV. STAT. §§ 141.210-.810, .980-.1015 (2016).


9. Id. at 792.

10. Id. at 802.


12. Missouri courts have taken the tax foreclosure due process under consideration, rendering some supplemental guidance to the taxing jurisdictions. Most notably, state courts addressed the issue of exactly to whom the County is supposed to give notice. The Missouri Supreme Court required that notice be given to the holders of mechanics liens. Collector of Revenue v. Parcels of Land, 453 S.W.3d 746 (2015). The Court applied the above federal notice requirements, specifically requiring that attempts at notice by certified mail be made to mortgage holders. Anheuser Busch Emp.’s Credit Union v. Davis, 899 SW.2d 868 (Mo banc 1995); Lohr v. Cobur Corp., 654 SW 2d 883 (1983). In 2009, the Missouri Supreme Court stated that the “notice provisions prescribed in state statutes may not be constitutionally sufficient for due process purposes.” Collector of Revenue v. Parcels of Land, 453 S.W.3d 746, at 751 (2015)

13. Id.


15. ENVTL. MGMT. COMM’N, VACANT LOT TASK FORCE REPORT 10 (2014).

16. Ted Anderson, Executive Director, LAND BANK OF KANSAS CITY, MISSOURI
18. Id.
19. Id.
23. Immergluck, supra note 14, at 4 n. 3.
24. This was a factor in the St. Paul Houses to Homes intervention, as “residential properties comprised] over forty percent of the city’s tax base”. Goetz et al., Pay Now or Pay More Later: St. Paul’s Experience in Rehabilitating Vacant Housing, 28 CURA REP. (1997).
25. Id.
27. Id.
28. Id.
30. See infra Appendix A.
31. See infra Appendix B
33. Greene v. Lindsey, 456 U.S. 444, 449 (1982); See Dusenbery v. United States, 534 U.S. 161 (2001) (upholding a notice of forfeiture which was delivered by certified mail to the mail-room of a prison where the individual to be served was incarcerated).
34. See Frank S. Alexander, Tax Liens, Tax Sales, and Due Process, 75 Ind. L.J. 747 (2000); see also Community Progress, A Crash Course in Tax Foreclosure Reform 101, CTR. FOR COMMUNITY PROGRESS: COMMUNITY PROGRESS BLOG (Apr. 15, 2014), http://www.communityprogress.net/blog/tax-day.
35. See Alexander, supra note 32.
36. See infra Appendix C.

39. TITLE INS. (C) TASK FORCE, NAT’L. ASS’N OF INS. COMM’RS, SURVEY OF STATE INSURANCE LAWS REGARDING TITLE DATA AND TITLE MATTERS, 8-12, 15-22 (2015) [hereinafter SURVEY].

40. Id. at 15-19.

41. Id. at 15-22.

42. Meeting with Eric Nordman, supra note 35.

43. Id.


45. SURVEY, supra note 36, at 12-13.


47. Id.


52. See MO. REV. STAT. §§ 381.071.1(2), .052 (2016). The Director of Insurance may also need to promulgate regulations allowing certain omissions in title reports stemming from tax sales be omitted as “not serious risks.”

53. Two specific provisions are beneficial: MO. REV. STAT. § 141.1009.4 (2016) states the court shall schedule a hearing within ninety days; and MO. REV. STAT. § 141.1009.5 (2016) authorizes the joinder of more than one property in one petition.
## Appendix A: Data Set for All Tax Foreclosed Properties, 2011-15

<table>
<thead>
<tr>
<th>2013 Independence Sale</th>
<th>Number of Parcels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcels Extracted 6/8/2013</td>
<td>380</td>
</tr>
<tr>
<td>Total Parcels in (I) Sale:</td>
<td>131</td>
</tr>
<tr>
<td>Parcels Sold to Individual</td>
<td>69</td>
</tr>
<tr>
<td>Parcels Disaffirmed</td>
<td>5</td>
</tr>
<tr>
<td>Parcels Sold to Land Trust</td>
<td>57</td>
</tr>
<tr>
<td>Total Purchase Price</td>
<td>$776,519.20</td>
</tr>
<tr>
<td>Total Judgment Amount</td>
<td>$330,816.96</td>
</tr>
<tr>
<td>Recorder Fees</td>
<td>$2,220.00</td>
</tr>
<tr>
<td>Disbursed Recorder Fees</td>
<td>$2,070.00</td>
</tr>
<tr>
<td>Total Excess Proceeds</td>
<td>$443,482.24</td>
</tr>
<tr>
<td>Excess Paid</td>
<td>$134,136.56</td>
</tr>
<tr>
<td>Total Disaffirmed Amount</td>
<td>$230,891.68</td>
</tr>
<tr>
<td>Net Sale Proceeds</td>
<td>$277,191.32</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2014 Independence Sale</th>
<th>Number of Parcels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcels Extracted 6/7/2014</td>
<td>424</td>
</tr>
<tr>
<td>Total Parcels in (I) Sale:</td>
<td>140</td>
</tr>
<tr>
<td>Parcels Sold to Individual</td>
<td>55</td>
</tr>
<tr>
<td>Parcels Disaffirmed</td>
<td>5</td>
</tr>
<tr>
<td>Parcels Sold to Land Trust</td>
<td>80</td>
</tr>
<tr>
<td>Total Purchase Price</td>
<td>$605,877.79</td>
</tr>
<tr>
<td>Total Judgment Amount</td>
<td>$266,294.58</td>
</tr>
<tr>
<td>Recorder Fees</td>
<td>$1,800.00</td>
</tr>
<tr>
<td>Disbursed Recorder Fees</td>
<td>$1,650.00</td>
</tr>
<tr>
<td>Total Excess Proceeds</td>
<td>$337,783.21</td>
</tr>
<tr>
<td>Excess Paid</td>
<td>$172,952.83</td>
</tr>
<tr>
<td>Total Disaffirmed Amount</td>
<td>$78,483.79</td>
</tr>
<tr>
<td>Net Sale Proceeds</td>
<td>$234,698.62</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2013 Kansas City Sale</th>
<th>Number of Parcels</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcels Extracted 6/8/2013</td>
<td>2316</td>
</tr>
<tr>
<td>Total Parcels in (K) Sale:</td>
<td>972</td>
</tr>
<tr>
<td>Parcels Sold to Individual</td>
<td>385</td>
</tr>
<tr>
<td>Parcels Disaffirmed</td>
<td>17</td>
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<tr>
<td>Parcels Sold to Land Bank</td>
<td>570</td>
</tr>
<tr>
<td>Total Purchase Price</td>
<td>$1,484,056.89</td>
</tr>
<tr>
<td>Total Judgment Amount</td>
<td>$972,670.68</td>
</tr>
<tr>
<td>Recorder Fees</td>
<td>$11,550.00</td>
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<tr>
<td>Disbursed Recorder Fees</td>
<td>$11,010.00</td>
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<th>2014 Kansas City Sale</th>
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<tr>
<td>Parcels Extracted 6/7/2014</td>
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<td>Total Parcels in (K) Sale:</td>
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<td>Parcels Sold to Individual</td>
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<td>Parcels Disaffirmed</td>
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<td>Parcels Sold to Land Bank</td>
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<td>Parcels Extracted 6/6/2015</td>
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<td>Total Parcels in (I) Sale:</td>
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<td>Parcels Sold to Individual</td>
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<td>Parcels Sold to Land Trust</td>
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<th>2015 Kansas City Sale</th>
<th>Number of Parcels</th>
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<td>Parcels Extracted 6/6/2015</td>
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Proposed Chapter 141 Revisions For Increased Fees for Title Examination

Collector may employ abstracter—compensation.

141.070. 1. Hereafter, in any county of the first class in this state where the collector of the revenue of the county is required by law to enforce the lien of the state for back taxes by suit against real estate charged with the lien, except in counties of the first class not having a charter form of government, the collector may employ some competent and reliable abstracter of his county to prepare memoranda of abstract to lands described in the tax bills to be furnished by the collector showing all conveyances, liens and charges against the real estate, as shown by the records of the county, which shall be duly certified to by the abstracter. The abstracts or memoranda when prepared and certified as herein specified shall be delivered to the tax attorney employed to bring the suits and he shall file them with the petition in the case, and they shall become the property of the purchaser at the tax sale.

2. For preparing the abstracts or memoranda of title referred to in this section, the abstracter shall receive as compensation therefor a sum not to exceed ten dollars for each abstract or memorandum furnished. The charges shall be taxed as costs and shall be paid as other costs in the case.


Collector may employ abstracter title examiner—compensation.

141.070. 1. Hereafter, in any county of the first class in this state where the collector of the revenue of the county is required by law to enforce the lien of the state for back taxes by suit against real estate charged with the lien, except in counties of the first class not having a charter form of government, the collector may employ some competent and reliable abstracter of his county a state certified title examiner to prepare memoranda of abstract to a report for the lands described in the tax bills to be furnished by the collector showing all conveyances, liens and charges against the real estate, as shown by the records of the county, which shall be duly certified to by the abstracter. The abstracts or memoranda report when prepared and certified as herein specified shall be delivered to the tax attorney employed to bring the suits and he shall file them with the petition in the case, and they shall become the property of the purchaser at the tax sale.

2. For preparing the abstracts or memoranda report of title referred to in this section, the abstracter title examiner shall receive as compensation therefor a sum not to exceed ten dollars the collector’s actual cost for each abstract or memorandum report furnished. The charges shall be taxed as costs and shall be paid as other costs in the case.

Proposed Amendments to Chapter 141 Due Process Notice Requirements

Bill Title: Foreclosure of tax liens

141.410. 1. A suit for the foreclosure of the tax liens herein provided for shall be instituted by filing in the appropriate office of the circuit clerk a petition, which petition shall contain a caption, a copy of the list so furnished to the delinquent land tax attorney by the collector, and a prayer. The petition shall name each person who is in actual possession of the property to be affected, claiming title, if known by the delinquent land tax attorney or collector, or who has title to the premises appearing of record upon the proper records of the county in which they lie. Such petition without further allegation shall be deemed to be sufficient.

2. The caption shall be in the following form: In the Circuit Court of . . . . . . County, Missouri, In the Matter of Foreclosure of Liens for Delinquent Land Taxes By Action in Rem. Collector of Revenue of . . . . County, Missouri, Plaintiff -vs.- Parcels of Land Encumbered with Delinquent Tax Liens Defendants.

3. (1) The petition shall contain at least the following information:
   (a) The identity of the petitioner and the name of the address of the individual responsible for collecting the delinquent taxes;
   (b) The property address;
   (c) A description of the property;
   (d) The tax identification number of the property;
   (e) The applicable period of tax delinquency; and
   (f) The principal amount of the delinquent taxes together with interest and penalties.

   (2) The petition shall conclude with a prayer that all tax liens upon such real estate be foreclosed; that the court determine the amounts and priorities of all tax bills, together with interest, penalties, costs, and attorney's fees; that the court order such real estate to be sold by the sheriff at public sale as provided by sections 141.210 to 141.810 and sections 141.980 to 141.1015 and that thereafter a report of such sale be made by the sheriff to the court for further proceedings under sections 141.210 to 141.810 and sections 141.980 to 141.1015.

4. The delinquent land tax attorney within ten days after the filing of any such petition shall forward by United States registered mail to each person or taxing authority having filed a list of delinquent tax bills with the collector as provided by sections 141.210 to 141.810 and sections 141.980 to 141.1015 a notice of the time and place of the filing of such petition and of the newspaper in which the notice of publication has been or will be published.

5. The petition when so filed shall have the same force and effect with respect to each parcel of real estate therein described, as a separate suit instituted to foreclose the tax lien or liens against any one of said parcels of real estate.
141.430. 1. Upon the filing of such suits with the circuit clerk, the delinquent land tax attorney shall forthwith cause a notice of foreclosure to be:

1) Published four times, once a week, during successive weeks, and on the same day of each week, in a daily newspaper of general circulation regularly published in such county, qualified according to law for the publication of public notices and advertisements; and

2) Conspicuously posted on the property during the same successive four-week period.

2. Such notice shall be in substantially the following form: NOTICE OF FORECLOSURE OF LIENS FOR DELINQUENT LAND TAXES, BY ACTION IN REM

Public notice is hereby given that on the . . . . . . . . day of . . . . . , 20. . ., the Collector of Revenue of . . . . . . County, Missouri, filed a petition, being suit No. . . . . . . . ., in the Circuit Court of . . . . . . County, Missouri, at . . . . . . (stating the city), for the foreclosure of liens for delinquent land taxes (except liens in favor of the United States of America, if any) against the real estate situated in such county, all as described in said petition.

The object of said suit is to obtain from the Court a judgment foreclosing the tax liens against such real estate and ordering the sale of such real estate for the satisfaction of said tax liens thereon (except liens in favor of the United States of America, if any), including principal, interest, penalties, attorneys' fees and costs. Such action is brought against the real estate only and no personal judgment shall be entered therein.

The serial number assigned by the Collector to each parcel of real estate, a description of each such parcel, a statement of the total principal amount of all delinquent tax bills against each such parcel of real estate, all of which, as to each parcel, is more fully set out and itemized in the aforesaid petition, and the name of the last known person appearing on the records of the collector in whose name said tax bills were listed or charged for the year preceding the calendar year in which the list described in said petition was filed with the collector, are, respectively, as follows: (Here set out the respective serial numbers, descriptions, names, and statements of total principal amounts of tax bills, next above referred to.)

The total principal amounts of delinquent taxes set out in this notice do not include the lawful interest, penalties, attorneys' fees and costs which have accrued against the respective parcels of real estate, all of which in each case is set out and itemized in the aforesaid petition.

Any person or taxing authority owning or holding any tax bill or claiming any right, title or interest in or to or lien upon any such parcel of real estate, must file an answer to such suit in the office of the Circuit Clerk of the aforesaid County, and a copy of such answer with the Delinquent Land Tax Attorney at the office of the Collector of Revenue of said County, on or before the . . . . . . day of . . . . . . , 20. . , and in such answer shall set forth in detail the nature and amount of such interest and any defense or objection to the foreclosure of the tax liens, or any affirmative relief he or it may be entitled to assert with thereto.
Any person having any right, title or interest in or to, or lien upon, any parcel of such real estate, may redeem such parcel of real estate by paying all of the sums mentioned therein, to the undersigned Collector of Revenue, including principal, interest, penalties, attorneys' fees and costs then due, at any time prior to the time of the foreclosure sale of such real estate by the sheriff.

In the event of failure to answer or redeem on or before the date herein fixed as the last day for filing answer in the suit, by any person having the right to answer or redeem, such person shall be forever barred and foreclosed as to any defense or objection he might have to the foreclosure of such liens for delinquent taxes and a judgment of foreclosure may be taken by default. Redemption may be made, however, up to the time fixed for the holding of sheriff's foreclosure sale, and thereafter there shall be no equity of redemption and each such person having any right, title or interest in or to, or any lien upon, any such parcel of real estate described in the petition so failing to answer or redeem as aforesaid, shall be forever barred and foreclosed of any right, title or interest in or lien upon or any equity of redemption in said real estate.

Collector of Revenue . . . .
County, Missouri . . . . . . . . . . . . . . . . . . . . . . .
Address . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

141.440. The collector shall also cause to be prepared and sent by restricted, registered or certified mail with postage prepaid, within thirty days after the filing of such petition, a brief notice copy of the filing of the suit petition, to the persons named in the petition as being the last known persons in whose names tax bills affecting the respective parcels of real estate described in said petition were last billed or charged on the books of the collector, or the last known owner of record, if different, and to the addresses of said persons upon said records of the collector. The terms "restricted", "registered" or "certified mail" as used in this section mean mail which carries on the face thereof in a conspicuous place, where it will not be obliterated, the endorsement "DELIVER TO ADDRESSEE ONLY", and which also requires a return receipt or a statement by the postal authorities that the addressee refused to receive and receipt for such mail. If the notice is returned to the collector by the postal authorities as undeliverable for reasons other than the refusal by the addressee to receive and receipt for the notice as shown by the return receipt, then the collector shall make a search of the records maintained by the county, including those kept by the recorder of deeds, to discern the name and address of any person who, from such records, appears as a successor to the person to whom the original notice was addressed, and to cause another notice to be mailed to such person. The collector shall prepare and file with the circuit clerk at least thirty days before judgment is entered by the court on the petition an affidavit reciting to the court any name, address and serial number of the tract of real estate affected by any such notices of suit that are undeliverable because of an addressee's refusal to receive and receipt for the same, or of any notice otherwise nondeliverable by mail, or in the event that any name or address does not appear on the records of the collector, then of that fact. The affidavit in addition to the recitals set forth above shall also state reason for the nondelivery of such notice.

APPENDIX C: Proposed Amendments to Chapter 141 Due Process Notice Requirements
2. The collector shall also prepare and send, by first class mail, a copy of the petition, within 30 days after the filing of such a petition to the occupant of such property. The mailing shall be addressed to “Occupant” of the property.

3. The copy of the petition shall include a cover letter substantially as follows:

   To the occupant to whom this notice is addressed:

   You are the occupant of one or more parcels of real estate described in a certain petition bearing cause No. . . . (fill in number of case) filed in the Circuit Court of . . . County, Missouri, at . . . (fill in city), on . . . , 20.., wherein a foreclosure of the lien of various delinquent tax bills is sought and a court order asked for the purpose of selling said real estate at a public sale for payment of all delinquent tax bills, together with interest, penalties, attorney's fees and costs. Publication of notice of such foreclosure was commenced on the . . . day of . . . , 20.., in . . . (here insert name of newspaper), a daily newspaper published in . . . (here insert name of city), Missouri.

   Unless all delinquent taxes be paid upon the parcels of real estate described in said petition and said real estate redeemed prior to the time of the foreclosure sale of such real estate by the sheriff, the owner or any person claiming any right, title or interest in or to, or lien upon, any such parcels of real estate, shall be forever barred and foreclosed of all right, title and interest and equity of redemption in and to such parcels of real estate; provided, however, that any such persons shall have the right to file an answer in said suit on or before the . . . day of . . . , 20.., in the office of the Circuit Clerk and a copy thereof with the Delinquent Land Tax Attorney, setting forth in detail the nature and amount of the interest and any defense or objection to the foreclosure. Dated . . . . . . . . . . . . . Address

APPENDIX C: Proposed Amendments to Chapter 141 Due Process Notice Requirements
Proposed Amendments to Chapter 141 Recovery Limitations

Bill Title: Court administrator’s, sheriff’s deed, effect--action to set aside, limitations.

141.610. Each court administrator's or sheriff’s deed given pursuant to the provisions of the land tax collection law shall be presumptive evidence that the suit and all proceedings therein and all proceedings prior thereto from and including assessment of the lands affected thereby and all notices required by law were regular and in accordance with all provisions of the law relating thereto. The court administrator or sheriff shall record its deed and shall collect said recording fee at the time of sale. After one year from the date of the court administrator's foreclosure sale, the presumption shall be conclusive pursuant to sections 141.210 to 141.810. Notwithstanding section 516.010, the remedy for any claim challenging the court administrator’s or sheriff’s deed shall be limited to actual damages not to exceed the value of the property as determined by the price realized at the tax foreclosure sale, and any such claim Notwithstanding section 516.010, no suit to set aside or to attack the validity of any such court administrator's or sheriff's deed shall be commenced or maintained unless the suit is filed within one year from the date of the court administrator's foreclosure sale.
This report was prepared by the Urban Neighborhood Initiative’s Clear Title Taskforce. For additional information, please visit www.uni-kc.org.