



CITY OF SANTA FE

Policy Memorandum

Policy Memorandum

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To: Councilor Jamie Cassutt

From:
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Subject: Policies to Reduce Vacant Homes in the City of Santa Fe

Question Presented:

Which policies can most effectively reduce the total number of vacant homes in the City of Santa Fe ("City") as a means of helping to combat the City's housing shortages?

Executive Summary:

The scholarship on housing supply routinely shows that the demand for housing is high, continually rising, and shows little sign of slowing down, both in the US and globally.¹ Below is a summary of policy recommendations based on the research summarized in this memorandum:

- Impose a vacancy tax on a tiered system so that non-state residents pay a majority of the tax.
- Implement a vacancy fee through the Office of Affordable Housing or code enforcement.
- Establish a rental registry to track and catalog available or vacant housing units.
- Implement a property buy-back/property disposition program.

Background:

The definition of "home vacancy" varies but is generally recognized as a home that is unoccupied for a significant portion of the year (often around five or six months), while not being on the housing market. "Absentee ownership" describes owning a property without occupying said property for a set portion of time, again, often a majority of the year.

¹ Mariona Segú, "Taxing Vacant Apartments: Can Fiscal Policy Reduce Vacancy?," February 2016.



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The City's home vacancy rate sits at about 1.5% below the national average of 6.5%, but absentee home ownership is 33%, eight percentage points above the national average of 26%.² Household income inequality in Santa Fe is severe and household income varies drastically between short geographic distances.³ Many low-income families have left Santa Fe, and there is not a single census-tract within the city where a family making the median national household income can afford to own a single-family home priced at the average market rate for Santa Fe.⁴

Vacancy taxes have been implemented in many municipalities. This memo considers three North American vacancy taxes: San Francisco, Vancouver, and Washington D.C. San Francisco is notable because of the lawsuit that has arisen from the law's passage. This memo analyzes Vancouver's vacancy tax due to its measurable success. The memo examines the D.C. Vacancy tax for the length that it has been active as well as its relationship with other promising affordable housing programs.

San Francisco adopted its vacancy tax in 2022. The tax is based on square footage and increases each year a property is vacant. For instance, in 2024 the tax is \$2,500 each year for a property under 1,000 square feet whereas a property greater than 2,000 square feet is taxed at a rate of \$5,000 each year. The tax applies to residential buildings with two or more units in which any of the units have been vacant for 182 days consecutively or non-consecutively.⁵ Landlord and investor associations who argued the tax is a violation of property rights by compelling property owners to occupy vacant units have sued San Francisco, and a San Francisco judge has enjoined the municipal government from collecting the tax before any collections have had an opportunity to.⁶ It is unclear how long the legislation will be enjoined.

Vancouver adopted its tax in 2018. The tax is tiered and imposes a higher rate of taxation on foreign investors and Canadian non-residents more than Vancouver residents. Vacancy due to foreign investment is the primary reason for Vancouver's chronic housing shortages.⁷ As such, the Vancouver vacancy tax applies to unoccupied residential foreign investment properties that have been vacant for six months or more. Whereas foreign owners are taxed at a rate of 2% of the property's assessed value, British Columbians and other Canadians are taxed at a rate of 0.5%. The tax generated about \$80 million Canadian (approx. \$58 million USD) for the 2020/21 fiscal year, which went towards affordable housing programs.⁸ In succeeding years, revenue from the tax decreased. This decrease in revenue should be viewed positively, because it shows that

² Randall Goodnight, "HUD PD&R Housing Market Profiles," May 1, 2021.

³ "Santa Fe, NM," Data USA, 2022, https://datausa.io/profile/geo/santa-fe-county-nm?redirect=true&social-social_needs=homeless#equity.

⁴ "Santa Fe Housing Report" (Santa Fe Association of Realtors, 2022).

⁵ "San Francisco Municipal Code Article 29A: Empty Homes Tax Ordinance" (2022).

⁶ Kevin V. Nguyen, "Judge Upholds Challenge to San Francisco Vacancy Tax," The San Francisco Standard, January 2, 2024, <https://sfstandard.com/2024/01/02/judge-upholds-challenge-to-san-francisco-empty-homes-tax/>.

⁷ Josh Gordon, "Vancouver's Housing Affordability Crisis: Causes, Consequences and Solutions," 2016.

⁸ "Speculation and Vacancy Tax: Annual Mayors Consultation" (British Columbia Ministry of Finance, October 25, 2021).



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many owners subject to the tax have sold their vacant properties thus freeing them up to the housing market.⁹

The District of Columbia's vacancy tax also works on a three-tiered system, with its "Class 3" tier applying to vacant residential properties taxed at \$5 per \$100 of assessed value and other tiers paying a lower rate.¹⁰ The mayor of D.C. applies a set of municipal criteria to determine if a residential property is vacant/that there is no resident for whom an intent to occupy can be shown. The listed criteria are: Electrical, gas, or water meter not running, accumulation of mail, neighbor complaints, lack of window coverings or furniture, open accessibility, deferred maintenance, or the dwelling being boarded up.¹¹

Property owners in D.C. also coordinate with the city's Property Acquisition and Disposition Division ("PADD") regarding the ownership of their vacant residential properties. The PADD encourages owners of vacant or blighted properties to rehabilitate or occupy their units and facilitate repossession if sale negotiations are unsuccessful.¹² If the PADD acquires a property, it sells the property to developers who convert them into affordable and market rate units.¹³ The PADD has proven successful when implemented on blighted and vacant properties;¹⁴ however, D.C. often prioritizes other affordable housing initiatives.¹⁵

Critiques:

Vacancy taxes reduce home vacancy but do little to reduce the cost of available housing. If the goal of imposing the tax is to reduce the cost of housing, a vacancy tax model may fall short.¹⁶ Other factors should be considered, including a lack of government subsidization and lack of

⁹ "Speculation and Vacancy Tax Act: Review of Act and Regulations" (British Columbia Ministry of Finance, 2022).

¹⁰ "Vacant Real Property | Otr," DC.gov Office of Tax and Revenue, accessed July 12, 2024, <https://otr.cfo.dc.gov/page/vacant-real-property-0#:~:text=Class%203%2C%20vacant%20property%2C%20is>.

¹¹ "Code of the District of Columbia § 42-3131.05," 5 § (2010).

¹² Polly Donaldson, Polly Donaldson, "Transforming Vacant and Blighted Properties" (DC Department of Housing and Community Development, 2017).

¹³ Donaldson, "Transforming Vacant and Blighted Properties" (2017)

¹⁴ "Mayor Bowser Breaks Ground on 71 Affordable Apartments in Transit-Oriented Mount Vernon Triangle | Mayorb," Government of the District of Columbia Muriel Bowser, Mayor, June 22, 2018, <https://mayor.dc.gov/release/mayor-bowser-breaks-ground-71-affordable-apartments-transit-oriented-mount-vernon-triangle>.

¹⁵ "Affordable Housing Production and Preservation - DMPED Economic Intelligence Dashboard," DMPED Economic Intelligence Dashboard, 2019, <https://open.dc.gov/economic-intelligence/affordable-production-preservation.html>.

¹⁶ Mariona Segú , "The Impact of Taxing Vacancy on Housing Markets: Evidence from France," *Journal of Public Economics* 185 (May 2020): 104079, <https://doi.org/10.1016/j.jpubeco.2019.104079>.



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supply.¹⁷ Los Angeles county, for example, has increased housing affordability through its "regional housing needs allocation" policy, which combines efforts to increase housing supply with regional distribution of housing subsidies in the form of tax increment funds.¹⁸ Stated differently, the program transmits shares of housing growth to various cities in Los Angeles county that experience housing shortages and then incentivizes the building of these properties through tax subsidies.

Further, high income cities with higher-than-average home prices tend to have lower rates of vacancy compared to other locales.¹⁹ Santa Fe is no exception and therefore it stands to reason that vacancy is not the sole reason for housing shortages in the city then incentivizes the building of these properties through tax subsidies.

¹⁷ Jonathan Barrett, "Property Taxes as a Response to Foreign Investment as a Perceived Cause of Housing Unaffordability," *Journal of the Australasian Tax Teachers Association* 13, no. 1 (2018).

¹⁸ Darrel Ramsey-Musolf, "The Efficacy of Allocating Housing Growth in the Los Angeles Region (2006–2014)," *Urban Science* 4, no. 3 (September 16, 2020): 43, <https://doi.org/10.3390/urbansci4030043>.

¹⁹ Kenneth T Rosen and Lawrence B Smith, "The Price-Adjustment Process for Rental Housing and the Natural Vacancy Rate," *the American Economic Review* 73, no. 4 (September 1, 1982): 779–86.



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Recommendations:

Pursuing a Vacancy Tax:

In the City, a vacancy tax could be tiered so that out of state property owners pay the highest rate, with in-state and city residents paying the lowest rates, in that order. Any new taxes in the City must be passed by ballot measure and the legality of the question requires legal research.

Fee vs. Tax – Avoiding Electoral Standstill:

Legislators could consider imposing fees to finance the administration of a program or government expense on which the fees are imposed.²⁰ A vacancy or absentee ownership fee would most likely fall under the rubric of an “inspection processing fee” – a fee that includes the registration and inspection of housing, property licensing, and home utility inspections.²¹ This fee could be administered by the office administering the registration or inspection, licensing, etc. The next step would be to adopt an ordinance creating the licensing/inspection program and its associated fee.

Rental Registry:

Multiple US municipalities have implemented rental registries, which provide the cities with information on number of units, a property’s age, and if federal guidelines deem the property accessible in relation to the Americans with Disabilities Act (ADA) standards. Importantly, cities can use rental registries to track the rate of vacancy in a multi-unit residential building. A rental registry measure failed when brought to Albuquerque’s city council;²² however, if the City’s Governing Body adopted such a measure, then it could be used in a number of ways. A rental registry for property owners can be voluntary, but it is difficult to imagine a majority of landlords willingly signing up to participate in such a registry without some form of incentive or through compulsory participation. The option of a rental registry would require further examination of legislative precedent at the state level or in other municipal governments for how such a registry can be implemented.

Affordable Housing Disposition Program:

The City could also explore using its nuisance abatement code, Section 10-9²³ to purchase and then transform blighted or vacant properties into market rate and affordable homes. The City could also consider using foreclosure or purchase through a tax sale. These strategies could all fall

²⁰ Northwest Energetic Services, Llc. v. California Franchise Tax Board (159 Cal.App.4th 841 January 3, 2008).

²¹ Hugh D. Spitzer, “Taxes vs. Fees: A Curious Confusion,” *Gonzaga Law Review* 38 (2002): 349–51.

²² Jessica Dyer, “Albuquerque City Council Quashes Rental Property Registry,” *Albuquerque Journal*, May 1, 2023, https://www.abqjournal.com/news/local/albuquerque-city-council-quashes-rental-property-registry/article_61b964ee-4c9a-5b67-b5b0-e8bf883851cd.html.

²³ “SFCC Ord. #. 2005-1,” 10-9.3 § (1987).



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under the rubric of a city division similar to the PADD in Washington D.C. that also includes establishing a relationship with owners of vacant properties to negotiate sale or possible repossession.

It should be noted that New Mexico received funding from a federal program called the Neighborhood Stabilization Program (NSP) that provided funds for abandoned or nuisance properties to be converted into affordable housing. The program used limited funding from the federal government, which the City's Office of Affordable Housing has since expended.²⁴ Limited funding makes it difficult for the City to meet affordable housing goals set out by the state.²⁵ Transforming vacant or blighted units into affordable and market rate housing through a property disposition division that is part of city government would likely require purchasing the properties through either condemnation, tax sales, or foreclosure sales, but give these efforts longevity and remove future dependency on limited federal funding.

Final Remarks:

The research makes a clear distinction between affordability and simple access to housing supply, and because of this a holistic response that combines multiple policy solutions is more likely to improve housing affordability than any one strategy if a more systemic approach presents itself as a policy goal.

²⁴ "State of New Mexico Action Plan Substantial Amendment," *New Mexico Department of Finance and Administration* (New Mexico Department of Finance and Administration, October 15, 2019), <https://www.nmdfa.state.nm.us/local-government/community-development-bureau/neighborhood-stabilization-program/>.

²⁵ "NSP3 April 2021 thru June 2021," *New Mexico Department of Finance and Administration*, 2021, <https://www.nmdfa.state.nm.us/local-government/community-development-bureau/neighborhood-stabilization-program/>.