

August 22nd, 2022

Honorable Mayor Sheehan
Honorable Corey Ellis
Honorable Ginnie Farrell
Honorable Kelly Kimbrough
Honorable Owusu Anane
Honorable Edward Hyde-Clark
Honorable Meghan Keegan
Honorable Gabriella Romero

RE: Vacant Building Registry Quarterly Report

Good Afternoon,

Per Albany City Code Section 133-78.6 I have attached the required information that contains the requested numbers on vacant building registrations for the second quarter of 2022, and have included a brief analysis of them. This document is not meant to be an encompassing report of vacant buildings in the City nor of the City's efforts to fight blight.

This report is currently produced on a quarterly basis by staff from the Department of Buildings & Regulatory Compliance (BRC) with assistance from Corporation Counsel's office. We are aware that the past few quarterly reports have been completed over four weeks after the quarter has ended, well into the next quarter. This report is delivered to you halfway into the 3rd quarter of 2022. Producing this report is a valuable exercise for the Department, as we get to share our work with the Council and the City's land use boards. It also provides us with the opportunity to highlight issues we face in fighting blight and vacancy. However, this report takes a significant amount of time for staff of both BRC and Corporation Counsel. We would like to suggest changing the reporting requirements for this report to be delivered twice a year instead of quarterly in order to reduce the burden on BRC and Corporation Counsel staff.

The numbers requested in subsections A. and B. of 133-78.6 can be found in Table 1 below.

Table 1: Vacant Buildings by Building Fee Categories (2nd Quarter 2022)

Building Fee Categories	# of properties known to be vacant	Registered Vacant Properties	% of Total Vacant Properties Registered	Newly Registered Vacant Properties
1-3 Residential Units	838	199	24%	46
4-6 Residential Units, and mixed commercial & residential units (1-3)	37	10	27%	1
7+ Residential	1	1	100%	1
Nonresidential	101	15	15%	6
Total	977	225	23%	54

Tables 2 & 3: Vacant Buildings by Locally Designated & Nationally Designated Historic Districts (Q2 2022)

Locally Designated Historic Districts	# of properties known to be vacant	# of Registrations newly filed	Total Registered Vacant Properties	% of Known to be vacant properties registered
Arbor Hill / Ten Broeck Triangle	18	2	5	28%
Center Sq / Hudson Park	36	3	9	25%
Clinton Ave / N Pearl / Clinton Sq	58	0	12	21%
Downtown Albany	14	5	6	43%
Elberon Triangle	1	0	0	0%
Lafayette Park	1	0	1	100%
Lark Street	14	0	6	43%
Lexington Avenue	3	0	0	0%
Mansion	25	3	5	20%
Pastures	4	0	0	0%
South End-Groesbeckville	79	5	12	15%
South Lake Avenue	0	0	0	N/A
South Pearl Street Commercial Row	0	0	0	N/A
Upper Madison Avenue	1	0	0	0%
Washington Avenue	0	0	0	N/A
Washington Park	6	0	0	0%
Total	260	18	56	22%

Nationally Designated Historic Districts	# of properties known to be vacant	# of Registrations newly filed	Total Registered Vacant Properties	% of Known to be vacant properties registered
Arbor Hill / Ten Broeck Triangle	18	2	5	28%
Broadway & Livingston Avenue	2	0	1	50%
Center Sq / Hudson Park	36	3	9	25%
Clinton Ave / N Pearl / Clinton Sq	58	0	12	21%
Downtown Albany	14	5	6	43%
Knox Street	0	0	0	N/A
Lafayette Park	1	0	1	100%
Lustron Houses of Jermain Street	0	0	0	N/A
Mansion	25	3	5	20%
Pastures	4	0	0	0%
Rapp Road Community	3	0	0	0%
South End-Groesbeckville	78	5	12	15%
Washington Park	6	0	0	0%
Total	245	18	51	21%

As seen in Table 1 above, there were 225 buildings registered as vacant in the City of Albany second quarter of 2022. The number of known vacant properties increased by 14 after decreasing in six straight quarters, going from 1,051 buildings in Q4 2020 to 977 in Q2 2022 (see Table 5). Of the four Building Fee Categories spelled out in Section 133-78.3E(2), buildings with 1-3 units represent the vast majority of buildings identified as vacant. Tables 2 & 3 show the breakdown by Local & National Historic Districts.

Table 4: Overview of Vacant Properties in the City of Albany (Q1 2022)

Vacant Properties in City of Albany	Count	% of Total
Registered with City	225	23%
Registered with NYS Division of Financial Services	54	6%
ACLB Owned	58	6%
Publicly Owned (other than ACLB)	12	1%
Remaining Vacant Properties	628	64%
Total Vacant Properties	977	100%

Table 5: Quarterly Overview of Vacant Properties in the City of Albany

Vacant Properties in City of Albany	Q4 2020	Q1 2021	Q2 2021	Q3 2021	Q4 2021	Q1 2022	Q2 2022
All Vacants	1051	1020	1012	988	967	963	977
Registered Vacants	248	247	228	243	227	236	225
New Vacant Registrations	61	53	45	72	56	59	54
Land Bank Owned	N/A	86	87	85	83	65	58
Publicly Owned	N/A	11	10	10	10	12	12
Registered w/ NYS DFS	N/A	103	101	106	N/A*	67	54
Remaining Vacants	803*	573	586	544	647*	583	628
Violations Issued for Failure to Register as Vacant	108	115	96	65	31	39	48 ¹

Tables 4 & 5 are provided to give readers of this report a larger perspective on vacant buildings in the City of Albany. The Department of Buildings & Regulatory Compliance is actively working to get all unregistered vacant buildings into compliance with the City's Vacant Building Registry.

The Code Enforcement Process

Previous reports have noted that it typically takes several months for a code violations case to progress from an initial inspection to being filed for prosecution to being prosecuted in court, with the entire process often spanning two or more quarters. The length of this process makes it difficult to track them in a manner suitable for this report. The traditional code enforcement process succeeds when all three parties responsible for its implementation (BRC, Corporation Counsel, and Housing Court) are aligned in having the capacity to carry out their duties. The Cities RISE team, made up of multiple departments including BRC, sought out funding in 2019 for Corporation Counsel to add a dedicated attorney for code enforcement matters, a position we established thanks to grant funding from the Cities RISE program. Adding a dedicated code enforcement attorney resulted in an annual increase of \$265,000 a year in collections from judgments won in code enforcement cases, proving that investing in the traditional code enforcement process creates a positive return on investment.

¹ An asterisk was placed in two cells of Table 5 to signify that those numbers are likely higher than they otherwise would be due to missing or incomplete information elsewhere in the Table

Table 6: Quarterly Overview of Code Enforcement Cases

2022	Number of Cases			
	Total Cases produced by BRC	Cases referred for Prosecution	Cases filed by Corp Counsel	Cases referred but not yet filed
Q1	2722	208	79	129
Q2	2502	229	152	77
Total	5224	437	231	206

Table 7: Quarterly Overview of Housing Court Caseloads

2022	Cases heard by Albany City Court	Court Days	Cases per Court Day	# of days a new case has to wait for initial appearance	# of days until next available trial slot
Q1	967	13	74	78	91
Q2	906	13	70	85	85
Total	1873	26	72	N/A	N/A
Average	937	13	72	82	88

Tables 6 & 7 are meant to provide a data-driven look at the legal capacity for enforcing building code violations on non-compliant owners. Table 6 shows that the Department of Buildings & Regulatory Compliance referred 206 more cases for prosecution than were filed with the Court in Q1 & Q2. We are pleased to report that so far in Q3, Corporation Counsel's office has been able to make progress on this backlog, filing more cases than BRC has referred. Unfortunately, Table 7 shows that the cases that were filed waited an average of 82 days before they made an initial appearance in court. Given that most code enforcement cases are given 35 days for compliance before they are referred for prosecution, this means that these properties are in violation for an average of 117 days, or nearly four months, before a judge is able to see the case². The Department of Buildings & Regulatory Compliance generally lacks a meaningful way to get non-compliant property owners into compliance during this period, barring emergencies and without legal backing from a judge. If a new case were to be referred for prosecution and filed today, it would not be scheduled for an initial appearance in court until November 10, 2022.

The impacts of this delay cannot be understated. Given that there currently is no mechanism for complainants to get updates on a case without continuously reaching out to BRC or Corporation Counsel, most have a poor experience when they call code enforcement. Complainants see code enforcement arrive, witness officers entering violations into the system and taking photos, but

² The Department of Buildings & Regulatory Compliance & Corporation Counsel's Office routinely expedite more serious cases through this pipeline, delivering some cases to a judge in as little as 14 days. When that happens however, other cases have to be pushed back and wait even longer for a court date.

then wonder what happens over the course of the next 4+ months as no repairs are made by non-compliant owners. This disconnect causes residents to lose faith in code enforcement and view the department negatively. In turn, affected residents make fewer complaints, and building code issues go unaddressed for longer periods of time, often becoming worse in severity and causing additional issues within the building and the neighborhood. The Department of Buildings & Regulatory Compliance is looking to provide more information to the public on these cases through the future implementation of a public database of code violations, though this database will not solve for the delay between a case being filed and its first appearance in court.

The July 2022 Eviction Filings report, completed by the Housing Services Advocate in the Albany Community Development Agency (ACDA), observed that there is also a nearly two-month backlog between the time that an eviction case is filed in court and the date of that case's initial appearance. Staff from ACDA, BRC, and Corporation Counsel's office have also noticed that a delay in an eviction case or code enforcement case can add to the backlog in the other. For example, the City has been involved in an open code enforcement case with one owner-occupant landlord in West Hill for nearly two and a half years (See Figure 1). The case, which was opened in February of 2020, was referred to court in September of that year. The first court appearance for this matter did not take place until April of 2021, and an additional five months elapsed before the case reached a resolution in court in September of 2021. Throughout this time period, the tenant periodically called for updates on the codes case. Due to the ongoing code issues at the property, the landlord was unable to remove the tenant when they filed for a non-payment eviction in August of 2020. That eviction case was open until May of 2022, when a settlement agreement was brokered between the landlord and the tenant, through the advocacy of City of Albany staff. Furthermore, because the landlord has failed to make the necessary repairs to the rental unit, they have yet to obtain a Residential Occupancy Permit (ROP). Unfortunately, the violations at the property still have not been resolved at this time. While the delays in this case were caused in part by the pandemic, the multiple proceedings happening simultaneously had an impact on how fast either proceeding could move, slowing down possible resolutions and taking up valuable court time.

Figure 1: Illustrative Court Timeline of a Tenant-Occupied Property in West Hill

Date	Months Elapsed	Event
Feb.2020	--	Tenant calls code enforcement and a case is initiated
Mar. 2020	--	Initial inspection occurs and Notice of Violation is sent
Jun. 2020	4	Second inspection occurs and final Notice of Violation is sent
Aug.2020	6	Third inspection occurs – property still in violation
Aug. 2020	6	Landlord files an eviction case against the tenant
Sep. 2020	7	Code case is referred for prosecution
Apr. 2021	14	Initial court appearance
Sep. 2021	19	Plea agreement is reached in City Court
Feb. 2022	24	Eviction case still ongoing – hearing occurs
May 2022	27	Settlement reached in eviction case
Aug. 2022	30	Code issues still not resolved

Due to the large caseloads, the court has attempted to implement an unofficial cap of 60 code cases per court day, or approximately 720 cases a month. Despite the unofficial cap, Albany City Court, has heard an average of 72 cases per court day over the last two quarters for an average of 937 cases each quarter. If all cases ready for prosecution were to be heard in court each month, the court would hear roughly 80 cases per court day, or 1,040 cases per quarter.

The volume of cases that the Department of Buildings & Regulatory Compliance produces has resulted in both the City Court and the code enforcement attorney reaching their respective capacities in what can be meaningfully prosecuted. We understand Corporation Counsel has a plan to add a lawyer to help tackle the caseload produced each quarter, which is welcome news. However, the existing lawyer and code enforcement officers already create a caseload that City Court cannot keep up with, despite the judges best efforts. The Department of Buildings & Regulatory Compliance strives to be more proactive in fighting blight, vacancy, preserving historic structures, and improving the quality of our built environment. To that end, we are routinely asked if adding code enforcement officers would improve our efforts and outcomes. While we would welcome that investment, it is our observation that an additional judge and/or additional court hours would have a greater impact on our ability to carry out our mission.

Other Processes

It should be noted that compliance by mortgage servicers with New York State's Zombie Law of 2016 is spotty and inconsistent, and the numbers provided to us by the NYS Division of Financial Services (included in Tables 4 & 5) should be considered more of a ballpark figure than an exact total. Even though the 2016 law specifically exempts mortgage servicers from registering zombie properties with local municipal vacant building registries, many servicers still comply with these local laws across the state, and thus there is some double counting in this category. We are working with a variety of non-profit agencies, such as United Tenants of Albany and the HomeSave Coalition, to increase awareness of the assistance available for homeowners and landlords facing foreclosure and tenants facing eviction in order to prevent future vacancy.

We are currently working on using the 2016 NYS Zombie Law to prosecute noncompliant mortgage servicers to the fullest extent of the law, which in 2021 included lawsuits against Ocwen Financial Services & PHH Mortgage.

Public entities such as the Land Bank, Albany Community Development Agency, and others are specifically exempt from the registration fee under the City's Vacant Building Registry. The Albany County Land Bank's inventory continues to be affected by the moratorium on evictions & foreclosures during the COVID-19 pandemic, as Albany County was under a foreclosure moratorium from March 2020 to January 2022. County officials reported to us that the NYS Office of Court Administration held the enforcement of tax liens until May of 2022, four months past the ending of the foreclosure moratorium. The foreclosure process has reportedly been

restarted in June, with judgments expected to be signed by September and filed by October. With that timeframe in mind, we expect a large increase in Land Bank inventory next year as Albany County works to catch up on their backlog of tax foreclosures.

Table 8: Emergency Actions by Fee Category, Q4 2020 through Q2 2022

Category	# of Actions, Q4 2020	# of Actions, Q1 2021	# of Actions, Q2 2021	# of Actions, Q3 2021	# of Actions, Q4 2021	# of Actions, Q1 2022	# of Actions, Q2 2022
<i>1-3 Residential</i>	6	12	19	11	4	4	8
<i>4-6 Residential, or Mixed Commercial</i>	1	0	0	0	1	0	3
<i>7+ Residential</i>	0	0	0	0	1	0	0
<i>Nonresidential</i>	1	0	0	3	4	1	0
Total	8	12	19	14	10	5	11

Table 9: Emergency Actions as a Result of Fire, Q4 2020 through Q2 2022

Emergency Actions Taken as a Result of Fire?				
Quarter	Yes	No	Total	% Result of Fire
Q4 2020	1	7	8	13%
Q1 2021	3	9	12	25%
Q2 2021	3	16	19	16%
Q3 2021	4	13	17	24%
Q4 2021	0	10	10	0%
Q1 2022	2	3	5	40%
Q2 2022	3	8	11	27%
Total	16	66	82	20%

Table 10: Occupancy Status at time of Action, Q4 2020 through Q2 2022

Occupancy Status at time of Emergency Action						
Quarter	Vacant	% of Total - Vacant	Occupied	% of Total - Occupied	Lot	Total
Q4 2020	6	75%	2	25%	0	8
Q1 2021	8	67%	4	33%	0	12
Q2 2021	14	74%	5	26%	0	19
Q3 2021	9	53%	5	29%	3	17
Q4 2021	8	80%	2	20%	0	10
Q1 2022	3	60%	2	40%	0	5
Q2 2022	5	45%	6	55%	0	11
Total	53	65%	26	32%	3	82

Table 8 provides readers with the total number of Emergency Actions by Fee Category from Q4 2020 to Q2 2022, as required by Section 133-78.6 of Article XIA of Part 2 of Chapter 133 of the Code of the City of Albany. Also included are Tables 9 & 10, which provides more information on those emergency actions. Tables 11-14 provide information on those emergency actions through the lens of the City's Local & National Historic Districts. Some consistent patterns that emerge from this data include:

- One in five emergency actions from Q4 2020 to Q2 2022 are the result of a fire. Going back further in our records to 2017, that number has been as high as 30-40% in some years. More work on this data is needed on the neighborhood level, where data could tell us if fire prevention efforts by the Albany Fire Department & BRC would be best focused on particular neighborhoods. There does not appear to be a strong trend in any historic districts for fire-related demolitions.
- Nearly 30% of emergency actions occurred at properties that were occupied at the time of the action. The majority of these are the result of fires, with the remaining properties the result of unsafe conditions that put residents and neighbors at significant and serious risk to their health and well-being. This number increased in Q2 2022 due to numerous emergency actions at small garages in the rear of occupied residential structures.
- The vast majority of emergency actions occur in buildings with 1-3 Residential Units in areas of the City that are not designated as Historic Districts.

Of the eleven Emergency Actions in Q2 2022, seven were demolitions of main structures and four were demolitions of accessory structures used as garages. Three demolitions occurred in the South End-Groesbeckville historic district, though one of those demolitions only took down the rear part of the structure in order to stabilize the remainder of the building.

Table 11: Emergency Actions by Locally Designated Historic District from Q4 2020 to Q2 2022

Locally Designated Historic Districts	# of Actions, Q4 2020	# of Actions, Q1 2021	# of Actions, Q2 2021	# of Actions, Q3 2021	# of Actions, Q4 2021	# of Actions, Q1 2022	# of Actions, Q2 2022
Arbor Hill / Ten Broeck Triangle	0	1	0	0	0	0	0
Center Sq / Hudson Park	1	0	0	0	0	0	0
Clinton Ave / N Pearl / Clinton Sq	0	1	0	0	0	0	0
Downtown Albany	0	0	0	0	0	0	0
Elberon Triangle	0	0	0	0	0	0	0
Lafayette Park	0	0	0	0	0	0	0
Lark Street	0	0	0	0	0	0	0
Lexington Avenue	0	0	1	0	0	0	0
Mansion	0	0	0	0	0	0	0
Pastures	0	0	0	3	0	0	0
South End-Groesbeckville	0	0	2	0	0	1	3
South Lake Avenue	0	0	0	0	0	0	0
South Pearl Street Commercial Row	0	0	0	0	0	0	0
Upper Madison Avenue	0	0	0	0	0	0	0
Washington Ave Ext/Historic RR Embankment	0	0	0	0	0	0	0
Washington Park	0	0	0	0	0	0	0
<i>None</i>	7	10	16	14	10	4	8
Total	8	12	19	17	10	5	11

Table 12: Emergency Actions by Nationally Designated Historic District from Q4 2020 to Q2 2022

Nationally Designated Historic Districts	# of Actions, Q4 2020	# of Actions, Q1 2021	# of Actions, Q2 2022	# of Actions, Q3 2022	# of Actions, Q4 2021	# of Actions, Q1 2022	# of Actions, Q2 2022
Arbor Hill / Ten Broeck Triangle	0	1	0	0	0	0	0
Broadway & Livingston Avenue	0	0	0	0	0	0	0
Center Sq / Hudson Park	1	0	0	0	0	0	0
Clinton Ave / N Pearl / Clinton Sq	0	1	0	0	0	0	0
Downtown Albany	0	0	0	0	0	0	0
Knox Street	0	0	0	0	0	0	0
Lafayette Park	0	0	0	0	0	0	0
Lustron Houses of Jermain Street	0	0	0	0	0	0	0
Mansion	0	0	0	0	0	0	0
Pastures	0	0	0	3	0	0	0
Rapp Road Community	0	0	0	1	0	0	0
South End-Groesbeckville	0	0	2	0	0	1	3
Washington Park	0	0	0	0	0	0	0
<i>None</i>	7	10	17	13	10	4	8
Total	8	12	19	17	10	5	11

Table 13: Emergency Actions by Locally Designated Historic District from Q4 2020 to Q2 2022

Q4 2020 - Q2 2022 Emergency Actions						
Locally Designated Historic Districts	Action as a Result of Fire	% of Total	Vacant	Occupied	Lot	Total
Arbor Hill / Ten Broeck Triangle	0	0%	1	0	0	1
Center Sq / Hudson Park	0	0%	1	0	0	1
Clinton Ave / N Pearl / Clinton Sq	0	0%	1	0	0	1
Downtown Albany	0	0%	0	0	0	0
Elberon Triangle	0	0%	0	0	0	0
Lafayette Park	0	0%	0	0	0	0
Lark Street	0	0%	0	0	0	0
Lexington Avenue	0	0%	1	0	0	1
Mansion	0	0%	0	0	0	0
Pastures	0	0%	0	0	3	3
South End-Groesbeckville	0	0%	6	0	0	6
South Lake Avenue	0	0%	0	0	0	0
South Pearl Street Commercial Row	0	0%	0	0	0	0
Upper Madison Avenue	0	0%	0	0	0	0
Washington Ave Ext/Historic RR Embankment	0	0%	0	0	0	0
Washington Park	0	0%	0	0	0	0
<i>None</i>	16	23%	43	26	0	69
Total	16	20%	53	26	3	82

Table 14: Emergency Actions by Nationally Designated Historic District from Q4 2020 to Q2 2022

Q4 2020 - Q2 2022 Emergency Actions						
Nationally Designated Historic Districts	Action as a Result of Fire	% of Total	Vacant	Occupied	Lot	Total
Arbor Hill / Ten Broeck Triangle	0	0%	1	0	0	1
Broadway & Livingston Avenue	0	0%	0	0	0	0
Center Sq / Hudson Park	0	0%	1	0	0	1
Clinton Ave / N Pearl / Clinton Sq	0	0%	1	0	0	1
Downtown Albany	0	0%	0	0	0	0
Knox Street	0	0%	0	0	0	0
Lafayette Park	0	0%	0	0	0	0
Lustron Houses of Jermain Street	0	0%	0	0	0	0
Mansion	0	0%	0	0	0	0
Pastures	0	0%	0	0	3	3
Rapp Road Community	0	0%	1	0	0	1
South End-Groesbeckville	0	0%	6	0	0	6
Washington Park	0	0%	0	0	0	0
<i>None</i>	16	23%	43	26	0	69
Total	16	20%	53	26	3	82

The Department of Buildings & Regulatory Compliance strives to reduce the number of vacant buildings as much as possible, and we work with owners to assist them in repairing, maintaining, and re-occupying vacant buildings across the City. BRC works hard to enforce NYS & City building codes, requiring owners to register their buildings as vacant and bringing negligent owners to court if they fail to comply. The Department of Buildings & Regulatory Compliance has increased our efforts in identifying, recording, and prosecuting unregistered vacant buildings over the past few years.

If you would like any additional information or have questions about this report, please let me know.

Richard LaJoy

Director
Department of
Buildings & Regulatory Compliance