# ADDRESSING PROBLEM PROPERTIES: LEGAL AND POLICY TOOLS FOR A SAFER RUNDBERG AND SAFER AUSTIN

A REPORT PREPARED FOR GREEN DOORS BY THE
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## EXECUTIVE SUMMARY

This Report provides information and recommendations on legal and policy tools for improving public safety and the quality of life in the Rundberg area of Austin by addressing problem properties—in particular, multifamily and commercial properties that generate repeated criminal activity or are in dangerous physical condition. While we focus on the Rundberg area, our policy recommendations are applicable citywide, to any Austin neighborhood confronted with problem properties. The complete report is available at www.utexas.edu/law/clinics/ community/.

## I. THE CHALLENGES WITH PROBLEM PROPERTIES

The Rundberg area and other distressed neighborhoods in Austin face two core challenges when it comes to problem properties. The first challenge is a high concentration of individual properties, primarily multifamily complexes and motels, that are the sources of repeated criminal activity, threatening residents' sense of safety and wellbeing. Research reveals that just 2 percent of the addresses in the Rundberg area account for 60 percent of the calls for service, which is a fact mirrored in many cities nationwide. For example, prior to intervention by the City of Austin, the Budget Lodge motel in the Rundberg area generated 463 responses from emergency services (including police) and 103 police reports in just a ten-month period.

The second challenge is a concentration of deteriorating multifamily properties with dangerous and substandard conditions. In the Rundberg area and Austin at large,

this challenge is exacerbated by a large stock of older and poorly maintained multifamily housing. Close to 62 percent of Austin's apartment units (approximately 83,000 units) are located in Class C properties, and at least 43 percent of Austin's multifamily housing stock was built prior to 1974. Adding to this challenge, Austin has a long-standing culture of lax code enforcement, in which owners of substandard buildings face little in the way of repercussions for allowing their properties to deteriorate and generate unsafe living conditions.

## II. Summary of Major Findings

For this Report, we conducted extensive research on Austin's current policies and national best practices pertaining to problem properties through multiple conversations with City of Austin staff, other local stakeholders, and officials in other cities, as well as extensive independent research and consultations with national experts. Our principal conclusion from this research is that Austin's current policy tools and budgetary priorities are severely inadequate for addressing problem properties and making neighborhoods safer. In particular, we identified the following five core issues:

1. **Lack of enforcement infrastructure in the City Attorney's Office**. The City Attorney's Office is woefully understaffed to enforce cases against problem properties. The Office has only two attorneys working part-time on problem property cases, along with an attorney assigned to the Code Compliance Department. As a result of these limited attorney resources, the Austin Police Department has refrained from referring nuisance abatement cases to the City Attorney's Office, and the Code Compliance Department is unable to back up its enforcement actions with lawsuits against recalcitrant property owners who refuse to make their properties safe. Other cities have entire units of attorneys who are dedicated solely to problem property enforcement.

2. **Insufficient utilization of criminal nuisance abatement and other problem-oriented policing practices**. The Austin Police Department (APD) has placed a low priority on nuisance abatement and other problem-oriented policing practices. The Department has only two officers assigned to APD's Nuisance Abatement Unit, which operates in a reactive, triage mode responding to referrals from across the city. The Unit's officers are overwhelmed with the cases on their docket and, as a result, are unable to thoroughly pursue nuisance abatement in many situations that warrant this tool. APD officers outside the Unit receive very little in the way of training on nuisance abatement practices for addressing crime. In contrast, many other cities in Texas and around the country have made nuisance abatement and other problem-oriented policing practices a core part of their training programs and operations. The City of Austin's failure to prioritize nuisance abatement severely limits the City's ability to combat problem properties and address sources of crime in Austin neighborhoods.

3. **Code enforcement deficiencies**. There are three main problems with the City of Austin's current code enforcement program. First, the City relies on a complaint-based, reactive system rather than a proactive registration system that identifies, monitors, and targets the most egregious code violations. Unless something catastrophic happens, like a walkway or balcony collapsing, Austin does not have systems in place to identify and closely monitor the worst code violators. Second, the City lacks an adequate enforcement system to take more aggressive measures against landlords who repeatedly violate code and fail to fix dangerous building conditions. Finally, the City lacks programs to remediate code violations when landlords fail to make their properties safe. The City of Austin's code enforcement program is also impeded by the lack of adequate technology to allow the City and public to track the worst code violators.

4. **Lack of interdisciplinary collaboration among city departments**. The City of Austin is not utilizing the interdisciplinary, collaborative approaches utilized in other cities around the country, where dedicated teams of city staff from across city departments (including police officers, fire and code inspectors, and city attorneys) work closely together on a regular, on-going basis to address the most challenging problem properties.

5. **No programs in place to help multifamily owners fix problem properties**. Owners of smaller multifamily properties face unique challenges in accessing financing to repair their properties and bring them up to code, while also preserving the units as affordable housing. Other cities around the country have addressed these challenges by offering classes on property management as well as programs that assist with financing the rehabilitation of multifamily properties combined with affordable housing preservation commitments.

## III. NATIONAL BEST PRACTICES

The Report explores several national best practices for addressing problem properties, including the following three policy tools: criminal nuisance abatement, code enforcement, and rental registration.

### A. CRIMINAL NUISANCE ABATEMENT

Criminal nuisance abatement is an important form of problem-oriented policing, whereby police officers, code inspectors, and other city officials work closely together using interdisciplinary, problem-solving oriented approaches to analyze what is causing the high rates of crime at a property and what approaches could be taken to abate (i.e., eliminate) the criminal activity, given the unique circumstances of the property. If the owner is uncooperative in taking reasonable actions to reduce crime, the city can bring a lawsuit to shut down the property. However, studies have shown that in the vast majority of nuisance abatement cases where police officers are actively engaged with the owner, a lawsuit never has to be filed—almost all

owners take appropriate actions to reduce crime on the property.

Studies have also established that nuisance abatement is a very cost-effective tool for lowering crime at nuisance properties and improving the quality of life in a community. In contrast, continually arresting people on high-crime properties generally does little or nothing over the long-term to reduce crime at that location unless a city is also addressing the source of the crime. Cities all around the country have had very successful results in focusing resources on nuisance abatement. For example:

- A study in San Diego found that crime fell by 60 percent at high-crime properties over a 30-month period when police sent a letter to the property owner threatening closure of the property, followed up with a face-to-face meeting laying out actions to take, and then worked with the owner to make sure the changes were made.

- In Sacramento, a nuisance abatement program along a high-crime corridor resulted in crime rates dropping 36 percent, a decrease in code violations, an increase in local business tax revenue, and long-term cost savings to the City.

- In Houston, crime fell at all 21 apartment complexes in the City's multifamily nuisance abatement program, with crime rates falling 39 percent in just one year.

- The cities of Dallas and Arlington, Texas also report that their nuisance abatement programs have resulted in a high rate of voluntary compliance by property owners and in considerable reductions in crimes and calls for services.

National best practices in criminal nuisance abatement include:

- Providing training for police and other city staff on nuisance abatement and other problem-oriented approaches. For example, in Houston, 100 police officers have completed a 40-hour training on combating crime through environmental design strategies, and the City is moving towards making the training mandatory for all cadets in the police academy.

- Interdisciplinary nuisance abatement teams—such as those utilized in Houston, Dallas, San Diego, Sacramento, and Columbus—where staff from different city departments collaborate closely together to target the worst problem properties.

- Proactive approaches to address high-crime multifamily properties, such as Houston's and Dallas's multifamily nuisance abatement programs, which require owners of high-crime apartments to adopt environmental features proven to reduce crime (such as security lighting), attend a training program and monthly community policing meetings, and conduct monthly crime awareness meetings with residents.

- Employing a unit of city attorneys who are dedicated to prosecuting nuisance

abatement actions and bringing other legal actions to address problem properties. Many cities utilize this approach, including Dallas, San Diego, and Denver.

- A budget motel licensing program that requires motels to adopt sound management practices and environmental design features, such as the award-winning program adopted in Chula Vista, California, where crimes at budget motels fell by 70 percent and the overall appearance of the motels greatly improved.

## B. CODE ENFORCEMENT

Effective building code enforcement is an important tool for not only addressing problem properties and making them safer places to live but also for deterring rental property owners from letting their properties slip into a state of decline. There are four critical elements of an effective code enforcement system:

1. The city needs a process for systematically **identifying** code violations at rental properties.
2. There must be a process for **monitoring** violations.
3. When violations occur, there must be a process for **enforcing** the code and swiftly imposing penalties when the violations are not addressed or are repeated.
4. There must be a process in place for **remedying** code violations and making properties safe when landlords fail to do so. A code enforcement system should also include a program for providing alternative housing to tenants when enforcement efforts fail.

National best practices in code enforcement include:
- Rental Registration with proactive inspections (discussed further below) to identify dangerous code issues and incentivize property owners to keep their properties up to code.
- Programs for targeting the worst code offenders such as in Providence, Rhode Island, where a task force of different agency officials meets about twice a month to monitor and address 20 problem properties.
- Community prosecutor programs, such as those adopted in Dallas and Seattle, where city attorneys work directly out of a targeted geographic area with a team of other city officials on neighborhood quality of life issues.
- Dedicated housing courts that hear all problem property cases.
- Sophisticated property information systems that provide current and comprehensive information about properties and allow the city and residents to easily track and monitor the code enforcement process.
- Utilization of more aggressive legal actions against egregious code violators, including increased fines against repeat violators, as well as civil lawsuits and receivership when an apartment complex owner refuses to make a property safe.

- Emergency tenant relocation programs for assisting tenants who are displaced from dangerous housing that is condemned.
- Rehabilitation assistance programs for troubled multifamily properties, such as the successful programs adopted in New York City, New Jersey, and Chicago, where landlords receive loans and other assistance to fix up their properties in exchange for committing to keep the units affordable.

## C. RENTAL REGISTRATION

Rental registration is an efficient and evidence-backed tool for identifying and remedying dangerous code violations in rental properties. Rental registration programs require multifamily rental properties (and sometimes single-family, depending on the program) to register with the city by submitting a simple form identifying basic information about the property, such as how to reach the landlord in the event of an emergency. Usually a small fee ($10 to $25 per unit is typical) is required as part of the registration. The city then inspects each property—typically once every three to five years—according to an inspection checklist, checking for major code violations and life threatening conditions.

Rental registration programs give city code inspectors the authority to inspect the exterior and interior spaces of rental units on a rotating basis without having to go through the time-consuming process of obtaining a court warrant. Rental properties that fail the initial inspection are subject to re-inspections, and landlords can eventually have their registration revoked if they fail to make their properties safe for tenants.

A large and growing number of U.S. cities have been adopting rental registration ordinances, recognizing the critical role these ordinances play in identifying, deterring, and remedying code violations. Cities with a rental registration program include at least 20 Texas cities such as Houston, Dallas, Fort Worth, and Arlington, and many large U.S. cities such as Seattle, Sacramento, Philadelphia, Boston, Raleigh, Los Angeles, and Minneapolis.

The benefits of rental registration programs with pro-active inspections include the following:
- Rental registration inspections provide cities with a mechanism to identify dangerous apartment complexes. According to a report from the City of Austin, a "sizeable number of multifamily housing is substandard, aging, and overcrowded" in Austin, but city officials do not know where all these problem properties are located. Multiple studies have established that a large portion of dangerous code violations are unreported and undetected by officials in the absence of a rental registration program. Tenants' fear of retaliation is a major factor in the underreporting of code violations. Tenants also do not have the technical expertise needed to identify and report many types of dangerous code violations.

- Rental registration is a low-cost, self-funding program, meaning that local governments can implement the program without the use of tax revenue. With multifamily registration fees typically ranging from $.83 to $2.08 a month per unit, the financial impact of rental registration fees on owners and tenants is very minimal. The city staffing requirements are also minimal. The City of Houston, for example, employs just 4 code inspectors for its mandatory apartment inspection program. The inspectors have almost completed their first round of inspections for Houston's 5,000 registered multifamily properties.

- Rental registration programs have a strong track record of deterring landlords from engaging in deferred maintenance and lax property management and of increasing safe living conditions. For example, a study of North Carolina cities with rental registration ordinances found that the ordinances resulted in landlords bringing their properties into code compliance more rapidly, a decrease in residential fires, and a reduction in code complaints.

- Rental registration programs provide cities with important information needed to contact owners or property managers when there is an emergency, code issues, or other problems with a rental property.

## IV. RECOMMENDATIONS FOR ACTION

The Report contains a list of recommendations to improve the City of Austin's policies for addressing problem property properties and making neighborhoods safer. The following are the core recommendations from the Report:

1. **Build a Stronger Code Enforcement Program for Rental Properties.** The City of Austin needs to adopt stronger code enforcement policies to address dangerous multifamily properties, including policies that identify major code violations, swift enforcement actions when compliance does not occur, and policies that remediate major code violations when rental property owners fail to do so. These policies should include adoption of a rental registration ordinance with comprehensive inspections of rental properties, aggressive prosecution of laws against egregious code violators such as through Chapter 54 lawsuits, and creation of a remediation program, such as receivership, to repair rental properties when owners fail to do so.

2. **Create a Problem Property Unit in the City Attorney's Office.** We recommend that the City Attorney's Office create a special unit of attorneys dedicated solely to enforcing code violations and other problem property laws.

3. **Create a Citywide Community Prosecutor Program**, modeled on the City of Dallas's program, where community prosecutors from the City Attorney's Office have offices within the community and focus on code compliance, criminal nuisance issues, and other neighborhood quality of life issues utilizing community-focused strategies.

4. **Create an Interdisciplinary Problem Property Team with Increased Focus on Criminal Nuisance Abatement.** We recommend the City of Austin follow the approach utilized in Dallas, Houston, and many other cities to set up inter-disciplinary nuisance abatement teams of personnel from different city departments who collaborate closely together and coordinate resources to focus on the worst problem properties. We also recommend that the Austin Police Department expand its use of nuisance abatement and other problem-oriented policing, including assigning more officers to perform nuisance abatement work and increased training across the Department on problem-oriented policing, criminal nuisance abatement, and related approaches to addressing problem properties. We further recommend the City adopt a special proactive nuisance abatement program for high-crime multifamily properties, similar to the programs utilized in Dallas and Houston.

5. **Budget Motels.** We recommend the City of Austin adopt a hotel-motel licensing ordinance, modeled on the award-winning Chula Vista, California, ordinance, which would require hotels and motels in the city to adopt basic safety measures, not have any outstanding code violations, and not fall above a crime threshold set by the Police Department.

6. **Technology**. The City needs to create a stronger property information system to inform planning, intervention, and research around problem properties, integrating data from the Code Compliance Department, the Police Department, and other city departments. The system should also allow the public access to track the status of code complaints and other information on problem properties in their neighborhoods.

7. **Protect Displaced Tenants.** The City of Austin should adopt an emergency tenant relocation ordinance to assist tenants when they are displaced as a result of code enforcement actions, and also create an emergency response team to coordinate the delivery of emergency assistance to tenants when a property has to be shut down due to dangerous living conditions.

8. **Create a Rehabilitation and Affordable Housing Preservation Program for Older Multifamily Properties**. The City of Austin should create a program that provides low-interest financing to multifamily property owners with repair challenges in order to help the owners rehabilitate their properties, while tying the assistance to affordable housing preservation.