ABANDONED AND UNFINISHED RESIDENTIAL PROPERTIES
IN AMERICA AND EUROPE: COMPARATIVE STRATEGIES
FOR REMOVAL AND PREVENTION

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I. INTRODUCTION

The phenomenon of abandoned or failed real estate developments, sometimes referred to as “zombie subdivisions” in America, and “ghost developments or estates” in Europe, arose as a result of the real estate market disintegration after 2008.1 At the height of the American and European housing boom, developers sought to capitalize on what appeared to be an unstoppable market. Residential developments emerged at an incredible pace. However, local governments, banks, and developers overestimated the future demand for all of this new housing, and the market eventually collapsed between 2008 and 2009.2 Developers ran out of funds and were unable to finish their projects, resulting in incomplete or abandoned zombie or ghost properties in parts of America and Europe.

Such failed property developments are more common, in particular, in Intermountain states in the United States, and in Ireland and Spain. The 2008–2009 recession left subdivisions and developments in these areas in various states of completion.3 Some remain partially constructed, while others are finished and empty, but not marketable. Some developments only exist on paper—that is, the developments are merely plats recorded at the office of some local government. These once promising projects present significant challenges to local governments, which often do not have the appropriate resources, planning tools, local ordinances, or enabling authority in place to address these unsightly, unsafe, and abandoned areas.4 They are a potential threat to human health because

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2. HOLWAY ET AL., supra note 1, at 2.
3. Id.
4. Id. at 6–8.
they become a habitat for vermin and may even pose a safety hazard because they can be an attractive nuisance.\textsuperscript{5}

This paper examines both the causes and effects of these abandoned, incomplete developments, and compares how America and Europe have had similar, but also distinct experiences. The American experience is encapsulated in a case study of Teton County, Idaho—often referred to as the American poster child for ill-conceived development dreams,\textsuperscript{6} while the European experience is reflected in the countries of Ireland, Spain, and Portugal.\textsuperscript{7} This paper offers some lessons that can be learned by local governments in America and Europe, in order to avoid the dreaded specter of reappearing zombie or ghost properties in the future.

\section*{II. Failed Developments in America and Europe}

\subsection*{A. The United States: The Zombie Subdivisions of Teton County, Idaho}

The economic recession that began in late 2008 effectively ended one of the most dramatic real estate booms that the United States has ever experienced.\textsuperscript{8} Teton County, Idaho, where three out of four platted lots now remain vacant and where empty homes have become too common, is a well-documented, typical example of what happened in many communities that experienced the exhilaration of a housing boom and the collapse of an economic recession.\textsuperscript{9} Developers were lured to this rural area of the Intermountain West because land was abundant and cheap. During the height of the real estate boom, Teton County’s approval rating for subdivisions was five times higher than the region’s norm, and Teton County was named one of the fastest growing counties in the United States.\textsuperscript{10} But when America’s housing market stalled and nearly self-destructed in 2008, demand evaporated for new homes in Teton County, leaving behind empty lots and partially constructed developments.\textsuperscript{11}

\begin{itemize}
\item \textsuperscript{5} Id.
\item \textsuperscript{6} Molly Loomis, \textit{Boom and Bust: Reshaping Development Patterns in Teton Valley, NEW WEST DEVELOPMENT} (Mar. 24, 2011), http://newwest.net/topic/article/boom_and_bust_reshaping_development_patterns_in_teton_valley/C35L35/.
\item \textsuperscript{7} Since the “haunted landscapes” in Portugal are largely derivative of the Spanish experience, this paper will only focus on Spain. For a discussion of the Portuguese experience, see Pedro Carreira Garcia, \textit{Algarve: Housing Bubble Threatens Tourism}, PORTUGAL DAILY VIEW (Jun. 18, 2012), http://www.portugaldailyview.com/whats-new/algarve-housing-bubble-pressuring-heavily-the-tourism-sector.
\item \textsuperscript{8} Bruce M. Burger & Randy Carpenter, \textit{Rural Real Estate Markets and Conservation Development in the Intermountain West: Perspectives, Challenges and Opportunities Emerging from the Great Recession} 1 (Lincoln Inst. Land Pol’y, Working Paper No. WP10BB1, 2010).
\item \textsuperscript{9} HOLWAY ET AL., supra note 1, at 9, 46.
\item \textsuperscript{10} Loomis, supra note 6.
\item \textsuperscript{11} Allen Best, \textit{Unfinished Zombie Housing Developments Haunt the Rural West}, HIGH COUNTRY NEWS (Mar. 5, 2012), http://www.hcn.org/issues/44.4/unfinished-zombie-housing-developments-haunt-the-rural-west.
\end{itemize}
Teton County responded in two ways. First, to prevent such overbuilding in the future, the county adopted a development agreement template, which establishes guidelines outlining (1) when projects must be completed, (2) how they must be financed, and (3) what the county’s rights are if a developer defaults on the project. Second, in an attempt to remedy the unsightly and market-depressing eyesore of its current stock of empty houses and unplatted lots, Teton County has also adopted a replating ordinance that allows for the inexpensive, quick replatting of subdivisions. To incentivize replatting, the county will waive its fee for processing replat applications.

B. Europe: The Ghost Estates of Ireland and Spain

1. Ireland

Ghost estates in Ireland developed as a result of the national government’s aggressive approach to growth that accompanied a property building frenzy in the early twenty-first century. Excessive construction led to a significant oversupply of residential and commercial developments. The Irish government provided developers with overly generous tax incentives that originally were designed only to improve impoverished areas, but eventually expanded to other nonstruggling areas as well. As a result, developers started building houses primarily to take advantage of the tax breaks, without regard to the realities of the true demand for housing. In 2010, even those mythical demand expectations disappeared, leaving in place over 23,000 unfinished and empty housing units. Although this number has been lowered, ghost estates remain both a serious eyesore and public safety hazard in Ireland.

Ireland has been the most aggressive European country in finding top-down, national solutions to these abandoned developments. The national government established the National Asset Management Agency (NAMA) to manage bad-debt properties, allowing NAMA to acquire and manage bank assets relating to land and development loans. The Irish government has also devised a plan to demolish at least forty large ghost estates that have no hope of ever being developed and return those prop-

13. Id. at 19.
16. Id.
18. Id. at 9.
erties to “green field” status. These demolition efforts accelerated when a two-year-old child drowned in a pool of water behind a partly constructed and abandoned ghost estate housing complex. For developments that are only partially built, the country has begun to auction off properties to builders or developers willing to complete the projects. Another solution to the Ireland experience with ghost estates has been to turn some of these abandoned or partially occupied housing developments into social housing for homeless or indigent residents.

2. Spain

Spanish ghost towns, or what the Spanish call ciudades fantasma, are also a result of the early twenty-first century real estate boom and subsequent market crash. During the boom, more houses were constructed in Spain than in France, Germany, and the United Kingdom combined. The crash left approximately 1.5 million unsold new homes in Spain, creating ghost towns throughout the country. These areas have created a unique social problem, as squatters and homeless families have begun to take over unfinished housing complexes, which are mostly without running water or electricity. Because the complexes are privately owned, the local governments have no control over the situation.

Like Ireland’s top-down response, the Spanish national government established a “bad bank” to take over worthless real estate assets, and this institution now has an inventory of over 100,000 properties. The bank has set aside $140 million for demolition of the ciudades fantasma; however, it has no actual plans to demolish these developments and it refuses to demolish any ghost development houses or complexes that

retain any arguable value.27 This problem of ciudades fantasma looks to continue for Spain, as housing prices still drop and unemployment remains high.28

III. LESSONS FOR LOCAL GOVERNMENTS

Whether they are in America or Europe, zombie and ghost properties impair the quality of life for nearby residents, depress neighboring property values, and impose fiscal strains on local governments.29 How should communities address the existence of unfinished developments and prevent them from occurring in the future? Those who have studied this problem both in America and Europe agree that a universal first step, in order to remove and prevent these abandoned developments, is to rely on a bottom-up, local government-driven response. There is consensus that local governments should first adopt a comprehensive community plan, involving all affected parties, including the local government, real estate developers, bankers, and affected residents of the community. Subsequent steps must be in accordance with this plan.

A. Bringing Life to the Undead: How to Remove (or Finish) Unfinished Developments

When a local government is faced with one of these unfinished housing developments, it should first conduct a diagnostic triage to identify the areas that require the most immediate attention. The order of attention should be (1) remove health and safety hazards, (2) remedy environmental issues, (3) decide if project completion and eventual human habitation is feasible, and (4) demolish the rest. Next, community plans should be developed in which all stakeholders, including local governments, developers, banks, and affected residents, seek to implement strategies that permit either completion or removal of the distressed properties.30 Authorities should revise police power regulations, especially in areas where the unfinished developments are contributing to public health or safety hazards. Local governments should also embrace strategies, policies, and procedures for vacating plats, such as adopting incentivized replatting ordinances in which the application or processing fees are waived for property owners who want to replat.31 Local governments could also create a transfer of development rights program to allow own-

29. HOLWAY ET AL., supra note 1, at 3.
30. Kitchin et al., supra note 1, at 57–58.
ers of unfinished properties to sell or transfer their rights to those who can complete the project.\footnote{Id.}

\textbf{B. Avoiding Future Haunted Landscapes}

In both the United States and Europe, local governments need to build a solid foundation of laws, policies, and programs that will permit local authorities to adapt to evolving, and even deteriorating, market conditions. First, local governments should employ a neutral entity to conduct a market feasibility review to determine realistic residential outgrowth.\footnote{HOLWAY ET AL., supra note 1, at 39.} This study should be based on documented historical rates and patterns of home construction there, not the grandiose schemes and promises of developers.\footnote{Id. at 40.} It should in particular take into consideration the existing inventory of platted lots and current and likely foreseeable demand for housing.\footnote{Id.} Based on these studies, communities could then adopt comprehensive plans that require developers to (1) prepare growth projections prior to development and prior to being allowed to sell lots, and (2) provide periodic written disclosures about the status of the development throughout the process.\footnote{Anna Trentadue & Chris Lundberg, Subdivision in the Intermountain West: A Review and Analysis of State Enabling Authority, Case Law, and Potential Tools for Dealing with Zombie Subdivisions and Obsolete Development Entitlements in Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Utah, and Wyoming 71–72 (Lincoln Inst. Land Pol’y, Working Paper No. WP11AT1, 2011), available at https://www.lincolninst.edu/pubs/dl/2031_1353_Trentadue%20WP11AT1.pdf.} Second, local governments should offer economic incentives to developers, such as tax exemption laws for subdivisions, until a house has been occupied to ensure that the house eventually becomes occupied.\footnote{See Elliott, supra note 31, at 40.} Third, local authorities should consider some condemnation-like mechanism that would enable them to take control and remove properties that have remained vacant or abandoned for a specified number of years.