



Moving the Market

*by Way of Policy, Incentives, and Best Practices:
Redeveloping Historic Buildings in San Antonio's
Central Business District*

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1. Executive Summary

Overview and Methodology

San Antonio, Texas, is the seventh-largest city by population in the United States and the second most populous city in Texas. People worldwide recognize the city for its landmarks like The Alamo, La Villita, San Antonio Missions National Historic Park, The Riverwalk and numerous other sites that reflect the rich cultural heritage of the city and attract more than 26 million visitors per year.

Downtown preservation and redevelopment are a priority for San Antonio city leaders because of the clear economic, social, and historical benefits that such activities bring. However, there are many historic buildings in the city's Central Business District (CBD) that are vacant, run-down, or otherwise under-utilized. These vacant historic buildings bring with them the negative externalities of blight, vagrancy, and vandalism. They are an overall drag on the economy and face of a city that was the first community west of the Mississippi River to take up historic preservation as a cause.ⁱ

This Policy Analysis Exercise (PAE) examines the numerous forces that enable such a situation and makes several recommendations on how to tackle these issues. To arrive at these recommendations, I interviewed key stakeholders in San Antonio, subject matter experts, real estate developers, historic preservationists, and attorneys, among many others. I also conducted a literature review of the

history of historic preservation in San Antonio, examined the economic implications of historic preservation as public policy, examined the existing legal regime and economic incentives that affect properties in the San Antonio CBD, and looked at case studies of other cities to see how they successfully handled similar situations involving vacant buildings.

Findings and Recommendations

There is no one causal factor to blame for the vacant historic properties in the San Antonio Central Business District; the situation is very complex.¹ There are, however, five overarching forces in San Antonio's CBD that together lead to vacant historic properties. They are: 1) a property rights and municipal code regime that favors landowners, not the City of San Antonio; 2) unusually low property tax assessments of priority properties that disincentivize redevelopment; 3) a commercial real estate market in the San Antonio CBD that makes redevelopment or tenancy risky; 4) a lack of property owner motivation to redevelop or reuse vacant buildings, due in part to land speculation; 5) the difficulties of

¹ To a large extent, the vacancy and underutilization issues addressed in this PAE are symptoms of macro influences that have been at work for many years in San Antonio. These influences include, but are not limited to, the subsidization of suburban sprawl, land use policy and zoning, lack of public transportation, and public school quality. In order to keep the scope of this research narrow enough so as to provide actionable recommendations, I did not address any of these "macro" issues in my research, though any thoughtful future policy must certainly consider them when implementing holistic solutions.

aligning the interests of multiple interested and concerned stakeholders.

I have several recommendations designed to attack each of these forces, each with varying degrees of impact and feasibility, and a discussion of each can be found in Section 9. There are a few key recommendations, however, that I believe will move the market for the City of San Antonio and that should be rapidly implemented in a thoughtful and timely manner.

Enacting some of these recommendations may come at the expense of political capital for the stakeholders involved, but without bold action, the intended outcome of downtown redevelopment may never occur. Specific first next steps are:

- *Create a vacant property registration fee and tracking program.*
- *Work with Bexar County Appraisal District more closely to have historic buildings appraised in a consistent manner.*
- *Create a Center City Housing Incentive Policy (CCHIP)-like program for the (re)development of commercial properties.*
- *Establish a "Downtown Endangered Historic Buildings" Campaign.*
- *Build on-street parking and bicycle racks adjacent to target properties and throughout the CBD.*
- *Establish an interagency task force to facilitate communication and increase effectiveness of stakeholders addressing historic vacant properties. Require stakeholders to attend meetings that will be held 1-2 times per month.*
- *Find a local celebrity (e.g. David Robinson) to champion the preservation and reuse of San Antonio's historic buildings. Employ an ad campaign by this celebrity as part of the larger "Decade of Downtown" revitalization marketing effort.*
- *Create a statewide commission of cities to effectively lobby the state legislature for changes to receivership and sales tax laws that affect vacant commercial properties and their redevelopment.*

2. Client Overview – Center City Development Office & Office of Historic Preservation, City of San Antonio, Texas

This PAE was conducted for two clients, the City of San Antonio Center City Development Office and the San Antonio Office of Historic Preservation.

The Center City Development Office

The City of San Antonio Center City Development Office (CCDO) is a city agency responsible for fostering strategic development and redevelopment in and around downtown San Antonio – otherwise known as Center City. The Central Business District (CBD) of San Antonio, shown in Figure 1, is home to two of San Antonio’s most iconic destinations -- the Alamo and the Riverwalk -- as well as City Hall, Hemisfair, La Villita, The Alamodome, and numerous other vibrant components of the San Antonio landscape and economy. As part of a renewed effort to promote the economic development of the CBD and its surrounding neighborhoods, San Antonio city leaders created the CCDO in 2008.

The Office of Historic Preservation

The San Antonio Office of Historic Preservation (OHP) is a city agency that protects the historical, cultural, architectural, and archaeological resources that make San Antonio unique. Together with the Historic and Design Review Commission (HDRC), a committee of eleven members appointed by San Antonio City Council, the OHP oversees historic preservation in San Antonio. The agency conducts community preservation, education and outreach, and provides a number of resources for property owners and developers.

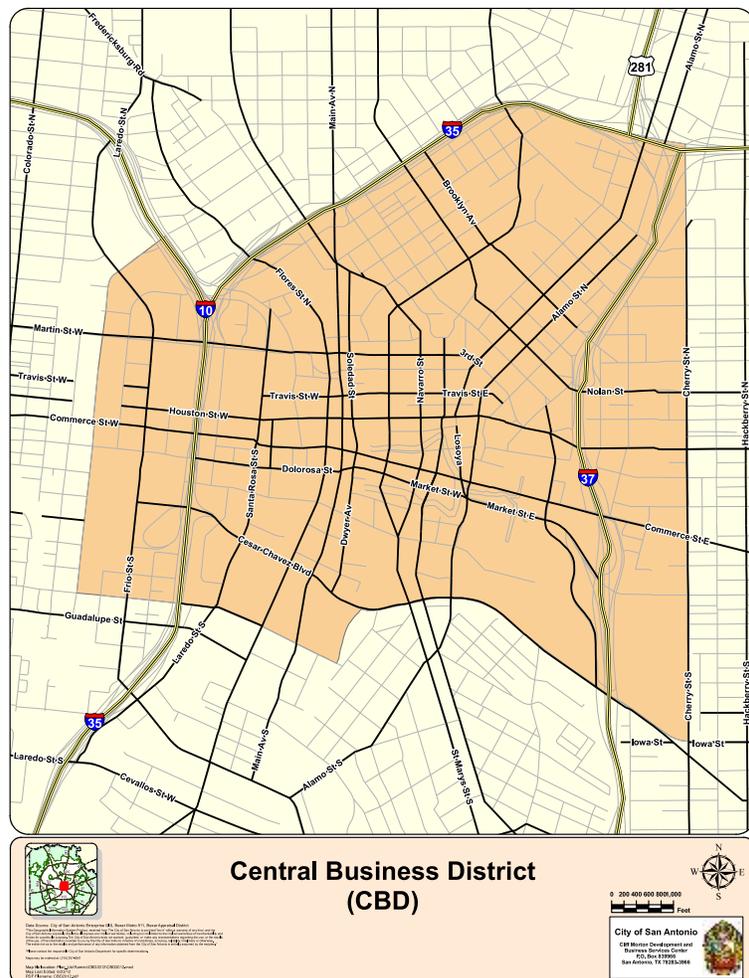


Figure 1: San Antonio Central Business District (Source: CCDO)

3. Policy Issue Overview

The Central Business District of San Antonio is home to many historic structures that make the city world famous for its architecture and successful preservation of the past for future generations. However, several historic buildings in the CBD remain vacant or underutilized. This Policy Analysis Exercise (PAE) examines the numerous forces that enabled such a situation, and makes several recommendations to tackle these issues.

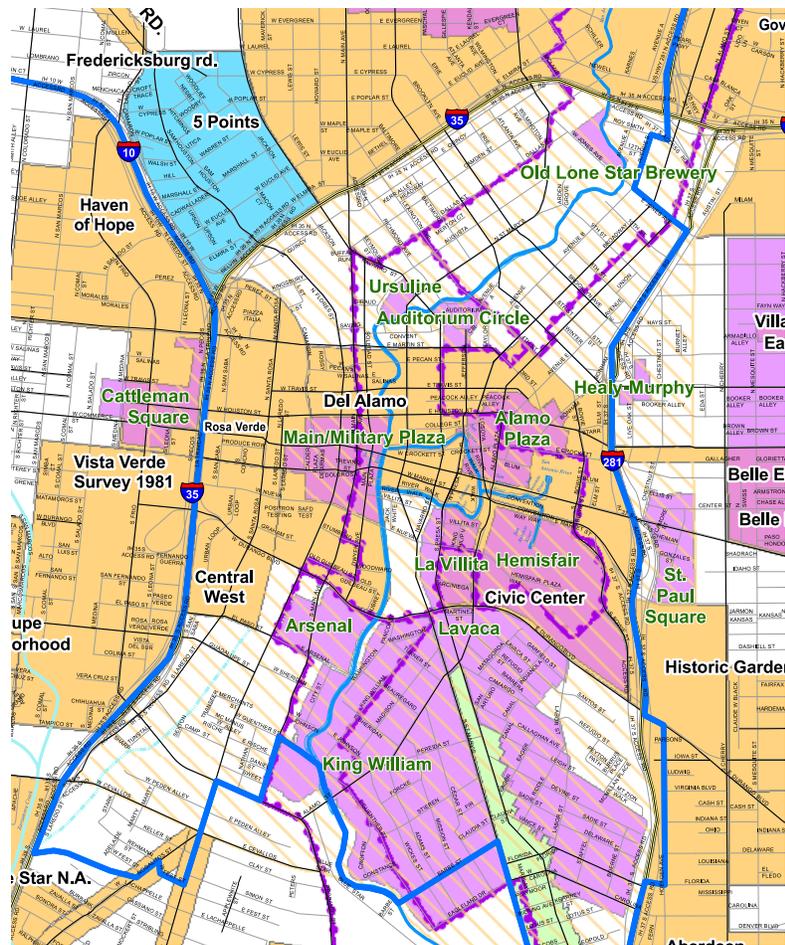
4. History of Architecture and Historic Preservation in San Antonio

San Antonio’s architectural history is unique among American cities thanks to its storied past. In the late 17th century, Spanish settlers explored the area around what is now known as the San Antonio River. In 1718, Spanish missionaries and soldiers established the first mission in the city and began the period of Spanish Colonial Rule. Over the next century, the Spanish colonists built many of the treasured buildings and missions that San Antonio is now known so well for, including the Mission of San Antonio de Valero (known today as the Alamo) in 1724, the San Fernando Cathedral from 1738-1758, and the Spanish Governor’s Palace in 1749.ⁱⁱ

The Spanish Colonial rule lasted until Mexico won its independence from Spain in 1821. Texas won its own independence from Mexico in 1836 and

entered into the Union in 1845, at which time the state began to gain a new influx of immigrants from Europe, Mexico, and other American states. Each of these unique cultures had a distinct influence on the local architecture of the time.

As San Antonio grew in the 20th century and historic buildings were razed in the name of progress, concerned citizens formed the San Antonio Conservation Society in 1924.



Legend

- Completed Reconnaissance Surveys
- Neighborhood Conservation District (NCD)
- Central Business District Survey
- Historic Districts
- River Improvement District
- Military Bases
- Potential Historic District
- City Council District
- 36 Square Mile Area
- Expressways

Figure 2: Historic Districts and River Improvement Overlay Districts in the San Antonio CBD (Source: HPO)

When the city was selected to host the 1968 World's Fair, more than 100 historic buildings were cleared to make way for Hemisfair and the Tower of Americas. This push toward modernism and the greater urban renewal movement awakened many concerned San Antonians and Texans to the fact that the city was in danger of losing the beautiful architecture that linked it to its historic past, and efforts began in earnest to preserve many of the city's historic buildings.ⁱⁱⁱ

In August 1967 the San Antonio City Council formally created the Board of Review for historic districts. Today, the Board is called the Historic Design and Review Commission (HDRC) and consists of 11 San Antonio residents who are appointed by the Mayor and

each City Councilmember for two-year terms.^{iv} In addition to performing several other functions, the HDRC reviews a number of projects for approval, including projects related to exterior changes to properties that are individually designated landmarks, projects within one of the COSA's twenty-seven historic districts, projects within one of the COSA's six River Improvement Overlay Districts (RIOs), and projects owned by the COSA such as parks and libraries. The historic districts and RIOs in the San Antonio CBD are shown in Figure 2.

Hemisfair Park, San Antonio, Texas



5. The Economic Case for Historic Preservation

Historic preservation and the adaptive reuse of historic properties are often considered by many in both the public and private sector to be prohibitively expensive activities. However, several studies have shown that preservation and adaptive reuse make more economic sense than new construction. Noted preservationist Donovan Rypkema has written extensively on the subject, and below I have identified what I consider to be the seven most relevant economic cases he makes for historic preservation and their corresponding implications. Figure 3 contains a summary of these cases and implications.

Case #1: Historic preservation creates more jobs than the same amount of new construction.

By their very nature, historic preservation projects are labor intensive. As a result, in a typical restoration project, approximately 60-70% of costs go toward labor compared to only about 50% of the costs of a new construction project. Consequently, local economies feel more positive effects from historic preservations than from new construction because labor wages go toward local craftsmen, who in turn spend those dollars on local goods and services.^v *Implication #1: Current and future COSA incentives for historic preservation will have a multiplier effect on the local economy greater than that of new construction.*

Case #2: Historic preservation is an ideal economic development strategy for small business development and retention.

The average small business in America employs 12 people and requires a workspace of somewhere between 2500-3500 square feet. Coincidentally, but not insignificantly, this is the floor plate size of many historic buildings, making small businesses and historic commercial buildings a perfect fit for one another. Also of note, 90% of the fastest-growing types of businesses in the United States employ fewer than 20 people, meaning that there is a constant market for such properties by small business.^{vi} *Implication #2: Vacant historic and underutilized properties in the San Antonio CBD are well suited to house San Antonio's growing small business economy, as they are mainly small commercial properties.*

Case #3: Historic buildings can serve as excellent incubator space for startups.

Startup businesses in search of incubator space typically require offices with a moderate finish, compared to a more robust finish for those companies in need of permanent office space.^{vii} If property owners are therefore incentivized to renovate historic buildings for use as incubator space, both the owner and the tenant will benefit. Consequently, entrepreneurial tenants will pay lower rents, owners will take on lower redevelopment costs, and cities will benefit from the generation of new jobs. *Implication #3: Vacant historic*

and underutilized properties in the San Antonio CBD may be better suited for conversion to incubator space rather than fully developed modern commercial space.

Case #4: Public sector targeting of historic redevelopment provides reassurance to private investors.

Local governments can catalyze reinvestment in center cities by focusing on historic properties. Such a commitment by cities to revitalizing existing structures then encourages private investment in areas where these historic buildings are located, spurring new development that can be complementary to a newly renovated historic property.^{viii} *Implication #4: By targeting historic vacant properties and underutilized properties in the CBD for redevelopment, the COSA will encourage continued future investment in the CBD.*

Case #5: "Back to the city" movements become "back to historic districts and historic properties" movements.

When people move back to center city areas, they seek "authentic" spaces in which to live and work. In a study conducted in New York City, such relocators invariably chose historic neighborhoods and properties for their new homes.^{ix} *Implication #5: The type of resident or commercial tenant seeking to move into the San Antonio CBD is likely to desire an historic, unique space over new construction.*

Case #6: Downtown is where a city's institutional leadership resides. The appearance of economic health

downtown is perceived as a direct reflection of the quality of that leadership.

As new businesses look to relocate to a city, they invariably look downtown to assess the quality of a community's leadership.^x In the case of San Antonio, this point has direct personal and professional implications for every stakeholder involved.

Therefore, some would argue that the vacant historic properties that are the focus of this study reflect poorly on city leadership. Historic preservationists point out that all thriving downtowns share two characteristics: 1) They are the center of interaction for the entire community, and 2) there is a sense of downtown ownership by the entire community, regardless of who owns the buildings.^{xi} *Implication #6: San Antonio politicians and city officials stand to gain significant praise and goodwill from their constituents if they can affect the redevelopment of historic vacant properties. Conversely, leaders who are unable to lead change can be seen as inept by their constituents.*

Case #7: The appreciation values of historic buildings often outperform the market as a whole.

Studies have shown that historic properties that are renovated and repositioned are often valued at a premium by buyers. Because market values of real estate are interconnected and because renovations usually take less time than new construction, investment in the renovation of historic properties can create significant value.

Implication #7: Investors redeveloping

vacant historic and underutilized properties in the COSA may see a faster return on their capital with less risk than that associated with new construction.

<i>Summary of Economic Cases for Historic Preservation and Their Implications for San Antonio Stakeholders</i>	
Economic Case for Historic Preservation	Implication for San Antonio Stakeholders
Historic preservation creates more jobs than the same amount of new construction	Current and future COSA incentives for historic preservation will have a multiplier effect on the local economy greater than that of new construction
Historic preservation is an ideal economic development strategy for small business development and retention	Vacant historic and underutilized properties in the San Antonio CBD are well suited to house San Antonio's growing small business economy, as they are mainly small commercial properties
Historic buildings can serve as excellent incubator space for startups	Vacant historic and underutilized properties may be better suited for conversion to incubator space rather than fully developed modern commercial space
Public sector targeting of historic redevelopment provides reassurance to private investors	By targeting historic vacant properties in the CBD for redevelopment, the COSA will encourage continued future investment in the CBD
"Back to the city" movements become "back to historic districts and historic properties" movements	The type of resident or commercial tenant seeking to move into the San Antonio CBD is likely to desire an historic, unique space over new construction
Downtown is where a city's institutional leadership resides -- the appearance of economic health downtown is perceived as a direct reflection of the quality of that leadership	San Antonio politicians and city officials stand to gain significant praise and goodwill from their constituents if they can affect the redevelopment of historic vacant properties. Conversely, such leaders who are unable to lead change can be seen as inept by their constituents
The appreciation values of historic buildings often outperform the market as a whole	Investors seeking to redevelop vacant historic and underutilized properties in the COSA may see a faster return on their capital with less risk than that associated with new construction

Figure 3: Summary of Economic Cases for Historic Preservation and Their Implications

6. Digging Deeper into the Issue

As became clear during interviews and readings underlying this analysis, no single factor is to blame for all of the historic building vacancies in the San Antonio CBD. In fact, each property has its own unique set of issues and will therefore require a unique solution to encourage its renovation and reuse. However, there are several causal factors, shown in Figure 4, that I believe have created the situation that currently exists in the San Antonio CBD and leaders must understand each of them before crafting effective policies that can move the market.

Property Rights and Municipal Code Favor Landowners

Texas State Law

Since its founding, the state of Texas has been well known for having laws that preserve personal property

rights. Article I of the Texas Constitution requires that “No person’s property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made.” Texas’s affirmation of strong personal property rights was later enhanced following the famous *Kelo vs. New London* decision by the U.S. Supreme Court in 2005, when Texas along with several other states, strengthened its state laws protecting an individual’s rights to personal property.

Last revised in March 2012, Texas’ Landowners Bill of Rights reads, “Private property may only be taken by a governmental entity or private entity that is authorized by law to do so. Your property may be taken only for a public purpose. That means it can only be taken for a purpose or use that serves the general public. Texas law prohibits condemnation authorities from taking your property to enhance tax revenues or foster economic development. Your property cannot be taken without

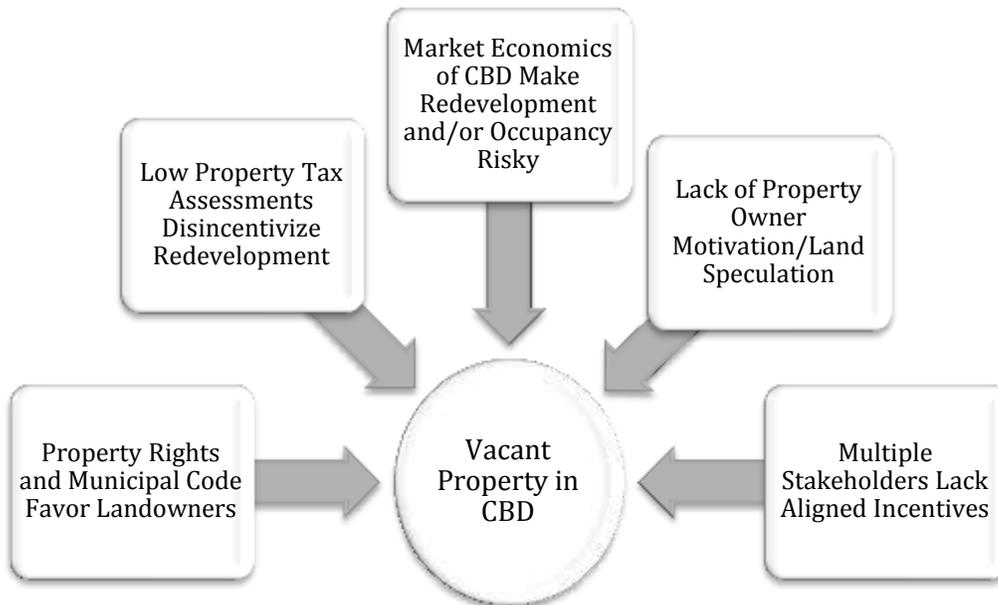


Figure 4: Factors Causing Vacant Historic Properties in San Antonio Central Business District

adequate compensation. Adequate compensation includes the market value of the property being taken. It may also include certain damages if your remaining property's market value is diminished by the acquisition itself or by the way the condemning entity will use the property."^{xii} This legal framework is crucial in analyzing San Antonio's situation because it means that the city cannot simply attempt to condemn or reclaim a vacant historic property solely for economic development purposes.

There are no easy answers in Texas when it comes to vacant properties, be they historic or not. There are, however, powers granted to municipalities through Texas' Local Government Code that may provide a pathway for San Antonio to use code enforcement to help preserve its historic structures in the CBD. Specifically, the relevant Chapters of the Texas Local Government Code that apply to historic properties and vacancies are Chapters 214, 211, and 54.

Chapter 214 of the Texas Local Government Code concerns the authority of municipalities to regulate substandard buildings. In general, Chapter 214 allows a Texas municipality to order a substandard historic property to be demolished or repaired after finding it a public nuisance at a Building Standards Board hearing. In San Antonio, the Historic Design and Review Commission (HDRC) would make the determination of whether or not a property is historic before such a hearing. According to law, the San Antonio Office of Historic Preservation

must then, within 90 days, attempt to find the owner of the property and identify an alternative use for the property or new owners to rehabilitate the property. The Building Standards Board may then proceed with a hearing to determine whether or not a historic property is deemed to be substandard or not. Should an historic property be deemed to be substandard by the Building Standards Board, the city may then sue the property owner to pursue the appointment of a receiver for the property. In the case of an historic property, the receiver must be a nonprofit organization or an individual with a demonstrated record of rehabilitated historical buildings. In the case of a non-historic property, only a nonprofit organization may serve as receiver. Though it is not the desired objective of either the City of San Antonio or this policy analysis exercise, an historic property may be demolished 90 days after the historic determination by the HDRC.

Chapter 214 also allows a municipality to repair a building and assess a civil penalty against a property owner for such repairs. However, this statute only applies if the building is a residential building with 10 or fewer units, and the repairs may only improve the building to the point that it meets – not exceeds – minimum housing standards. While this specific clause may have relevance to other historic vacant properties in San Antonio, it does not apply to the majority of the vacant historic properties in question in the CBD.

The receivership clause of Chapter 214 is of significant interest to Texas municipalities trying to save an historic property. The receiver, as described previously, may take control of a property and collect rents due on a property that is deemed to be a health or safety threat to a community and whose owner is unwilling or unable to make the necessary repairs. However, the property rights laws in Texas being what they are, the receiver is only entitled to a receivership fee of 10% of the costs and a reimbursement of the expenses of *rescuing* – not fully rehabbing – the property. In addition, if any income then received from the property exceeds the receiver’s costs and 10% fee, the rehabilitated property and any net income shall then be turned over to the lawful property owner.

Chapter 211 allows a Texas municipality to create zoning and regulate the construction or razing of places, structures, and areas of historical, cultural, or architectural significance. In general, zoning in San Antonio is regulated by the Unified Development Code, which governs the use and development of land in the city. The San Antonio CBD is all zoned “D” for downtown, meaning that any type of property is permitted for development or redevelopment, and that there is no height restriction on new development. Historic properties in the CBD may therefore be adapted for any use, be it retail, residential, office, industrial, or hotel.

Chapter 54 of the Texas Local Government Code, which concerns municipal health and safety

ordinances, also provides important tools for municipalities to deal with owners of vacant historic properties. In general if a municipality is able to demonstrate that a property poses a “substantial danger or injury or an adverse health impact to any person or the property of any person other than the defendant,” the municipality may take action to prevent the conduct that violates health and safety ordinances and require conduct that forces compliance with the ordinance. Additionally, a municipality may seek a civil penalty against a property owner not to exceed \$1,000 a day for a violation of an ordinance if a defendant receives notification that his/her property is in violation of a health and safety ordinance and he/she fails to take action to comply with the ordinance in question. This statute does not allow for imprisonment of a property owner if he/she does not pay this civil penalty. However, should a property owner be found financially liable in civil court for health and safety violations, he/she can be forced to file bankruptcy on a property and have to sell to pay the liens by the city against the property.

Moreover, in the cases of delinquent taxes on a property, a municipality is granted power for action through the Texas Tax Code. Specifically, these statutes are found in Chapter 33 of the Texas Tax Code, which concerns delinquency and Chapter 34 of the Texas Tax Code, which concerns tax sales. Further future analysis can be done here for tackling vacancy issues in other neighborhoods around the city.

San Antonio Municipal Law

Section 35 of the San Antonio Municipal Code governs the demolition and preservation of city historic landmarks and districts. To understand how important historic preservation is to the fabric of the city, one needs only to read the introductory clause of Section 35-614, which states, “*Demolition of a historic landmark constitutes an irreplaceable loss to the quality and character of the City of San Antonio. Accordingly, these procedures provide criteria to prevent unnecessary damage to the quality and character of the city’s historic districts and character while, at the same time, balancing these interests against the property rights of landowners.*”^{xiii}

The bulk of the provisions in Section 35 regulate the city’s approval of the demolition of historic properties by their owner, an activity that is not within the range of desired outcomes of this study. However, Section 35-615 pertains to “demolition by neglect” and outlines the minimum standards that a property owner must meet to preserve an historic property or structure. In essence, the historic building in question must be maintained to a standard of structural integrity, ensuring that the roof, floors, walls, foundation, and exterior of the building are not in danger of collapse. Additionally, a property owner must repair any historic structure found in violation of Section 35 to the city’s minimum housing standard, or he/she is subject to a civil penalty not to exceed \$1,000 per day.

Section 35-455 provides a potential pathway to the COSA for use of eminent domain to take over any

historic landmark or property within a historic district. According to the provision, whenever an owner applies for a certificate to demolish an historic building or building within an historic district, the city may, within 60 days, “...determine to condemn the property and take it by the power of eminent domain for rehabilitation or reuse by the city or other disposition with appropriate preservation restrictions in order to promote the historic preservation purposes of this chapter to maintain the structure and protect it from demolition.”^{xiv}

Section 6 of the San Antonio Municipal Code grants authority to the Building Standards Board to hear and decide on all cases and alleged violations of the Property Maintenance Code. Section 6 also dictates that vacant buildings must be secured so that they cannot be entered through missing or unlocked doors or windows. In the case of the vacant historic and underutilized properties in the CBD, this means that owners need only to “board-up” the windows of their property to be in compliance with municipal code. Once an owner replaces plywood in the windows of vacant property, the city can compel a property owner to remove it under Section 35-615. Such action requires aggressive enforcement of municipal code and efficient utilization of available resources.

Summary of Legal Pathways, Opportunities, and Challenges for COSA			
Legal Statute	Relevancy	Opportunity for COSA	Challenges
<i>Chapter 214, Texas Local Government Code</i>	Grants authority to municipalities to regulate substandard buildings	Allows for receivership and civil penalties	Receivership may only be enforced in the case of residential buildings Income earned by receiver in excess of costs plus 10% fee must be turned over to property owner
<i>Chapter 211, Texas Local Government Code</i>	Allows municipality to create zoning and razing of structures	Rezoning of target areas of Central Business District may encourage owners to seek other uses of vacant buildings	Rezoning is highly political and difficult San Antonio CBD currently allows for all types of development with no height restriction on new development
<i>Chapter 54, Texas Local Government Code</i>	Concerns Health and Safety Ordinances	Allows for civil penalties in case of health & safety violations against owners of vacant buildings	Health & Safety violations mainly deal with the structural soundness and exterior of a building and its security from vagrants
<i>Chapter 33 & 34, Texas Tax Code</i>	Covers tax delinquency and tax sales of properties	Properties in tax delinquency can be forced into sale by COSA	Most historic vacant buildings are not in tax delinquency status
<i>Section 35-615, San Antonio Municipal Code</i>	Regulates the minimum standards that an owner of an historic property must meet to avoid “demolition by neglect” ruling	Owners found in violation can face severe financial penalty and possibly be forced into bankruptcy by COSA	Current “demolition by neglect” statute only enforces penalties based on the condition of the building, not the duration of vacancy
<i>Section 35-455, San Antonio Municipal Code</i>	Provides for the taking of an historic property by COSA using eminent domain if owner requests demolition	Within 60 days of an owner’s request for demolition, COSA can take ownership of unwanted historic properties	Few owners are likely to willingly request demolition of their structure, knowing that it can then be claimed by the city
<i>Section 6, San Antonio Municipal Code</i>	Grants authority to COSA Building Standards Board to rule on violations of maintenance code	Allows city to seek penalties against owners who fail to properly maintain their building	Requires frequent use of city resources and costly inspections Code requires little maintenance from owners

Figure 5: Summary of Legal Pathways, Opportunities, and Challenges for COSA

Clearly, the COSA and property owners are each granted certain powers by the relevant state and municipal laws summarized in Figure 5. Within these laws may be a pathway for legal action by the COSA, though a significant set of challenges exists that has led in part to the situation as it currently stands.

Low Property Tax Assessments Disincentivize Redevelopment

The Bexar County Appraisal District (BCAD) determines property tax appraisals of all buildings in the San Antonio CBD. Under Texas Law, BCAD may use one of three methods to value the property: the market approach, income approach, or cost approach. Figure 6 shows a summary of these methods and their shortfalls.

Due to the provisions of the Texas Constitution, the method most frequently used by BCAD to assess the value for taxation of most properties and the improvements thereupon is the market approach.^{xv} In using this method, an appraiser looks at other market transactions and determines the value of the property in question if it were to sell on January 1 of the calendar tax year in question. However, this method does not work well in the case of valuing historic buildings or those properties that rarely change hands because no viable market comparisons are available, so other methods of valuation must also be used by BCAD in making assessments.

The cost approach is best used on new properties, and estimates the value of improvements on land by estimating what such improvements would cost

to replace. Again, this is not a good method to use when considering historic buildings, since their construction materials are dated and considerable depreciation has occurred.

Therefore, the ideal method for BCAD to use to estimate the value of historic buildings in the CBD should be the income method. Properly employed, this method is an accurate way of determining the value of a property by projecting the net operating income of a commercial building based off of market rents and capitalization rates. However, the income method only works if a property is occupied and producing income, a significant challenge in the case of vacant buildings.

No doubt, property tax assessments are always a sensitive subject and are the result of an imprecise science, therefore allowing room for debate. If a San Antonio taxpayer believes his/her property tax assessment to be excessive, he/she is allowed to challenge the assessment in an appeal to the BCAD. However, Chapter 25.25 of the Texas Property Tax Code states that only “grossly excessive values” can be adjusted, and the taxpayer must prove the excessive nature of the tax appraisal.^{xvi}

All of these methods would suggest that an accurate assessment, if properly applied, would create a taxable property basis such that owners of vacant historic and underutilized properties in the CBD would not want to keep their buildings vacant, as they have a tax bill that must be paid. However, in the

Summary of Tax Assessment Valuation Methods, Usefulness, and Shortfalls			
Valuation Method	Description	Usefulness in Valuing Buildings	Shortfall in Valuing Historic Buildings
Market Approach	Appraiser looks at other market transactions to determine value	Good method when there are frequent market transactions to use as comps	Historic buildings do not have same market characteristics of most buildings being traded due to intrinsic social & historical value Historic buildings rarely come to market so fewer comps exist
Cost Approach	Appraiser estimates replacement cost of building in question to determine value	Good method when few transactions or the cost of inputs in new construction is known	Historic buildings have dated materials and considerable depreciation; their replacement cost cannot be estimated because in many cases the building could not be built in modern times
Income Approach	Appraiser estimates value of building by looking at market rents and capitalization rates	Good method when market data exists for rents and capitalization rates of similar types of properties	Historic buildings may trade at different capitalization rates or have different rents than market comps Vacant historic building owners may claim that they cannot produce income with the building in its present state, therefore this is not a viable valuation approach

Figure 6: Summary of Tax Assessment Valuation Methods, Usefulness, and Shortfalls

case of several of these properties, the BCAD assessed value of the improvements on the land is less than \$1000. The result is a situation in which owners have no financial incentive to redevelop or restore a building (or vacant lot, for that matter) for fear of a higher tax bill.

While each property has its own specific characteristics that lead to different tax assessments, a brief comparison, shown the Figure 7, highlights the vast difference between the appraised values of various historic underutilized properties. Under the Texas Constitution, taxation must be equal and uniform. At a quick glance one can see that this is not the case with the two historic vacant properties in question, and it begs the question of why such disparities exist.

There are certainly many reasons for the taxation situation as it stands; however, in interviewing various stakeholders for this analysis, I came across many anecdotes of lowered tax basis through nepotism and litigation (or the fear thereof). No doubt, BCAD appraisers feel that they are in a lose-lose situation when it comes to assessing properties. On the one hand, they face pressures from the various public entities that receive tax revenues to keep assessments high, while on the other hand, assessors are regularly assailed by property owners who feel that their assessments should be lowered. Once an assessed value has been lowered and a tax bill assessed, however, the BCAD has little power to significantly raise it. In most cases, Texas law provides for only a maximum 10% annual increase in property tax bills.

Figure 7: Case Study, A Tale of Two Properties, Two Blocks Apart^{xvii}

Property 1: 519 E. Houston St.



Property 2: 901 E. Houston St.



	Property 1	Property 2
Address:	519 E. Houston Street, San Antonio, TX 78205	901 E. Houston Street, San Antonio, TX 78205
Year Built:	1930	1927
Owner:	519 EHS LLC	Edgar K. Markwardt
Square Footage of Land:	3,612	22,764
Square Footage of Improvements:	6,925	35,959
Tax Assessed Land Value (per square foot):	\$361,200 (\$100.00)	\$682,930 (\$30.00)
Tax Assessed Improvement Value (per square foot):	\$107,800 (\$15.57)	\$200 (\$0.01)
Last Year Known Occupied:	2005	2001
Last Use:	Office/Retail	Office/Retail

Market Economics of CBD Make
Redevelopment and/or Occupancy
Risky

In December 2011, the Centro Partnership San Antonio, in cooperation with the City of San Antonio and several other key stakeholders, released its *Strategic Framework Plan for the Center City*. This 96-page document lays the framework for accomplishing the SA2020 plan and highlights the challenges and opportunities associated with redeveloping the San Antonio CBD.

The *Strategic Framework* has many components and places a heavy emphasis on the development of housing in the Center City. According to the report, there are roughly 7,000 housing units in the San Antonio downtown that are home to 18,000 San Antonians.^{xviii} The issue, however, is that these numbers have remained relatively constant over the past two decades while the overall population of San Antonio has increased from 1.19 million in 1990 to 1.39 million in 2000, to 1.71 million in 2010.

This represents an almost 45% increase from 1990 to 2010. So while the San Antonio population and workforce are increasing at an increasing rate, the supply of housing in the Center City has remained constant. Meanwhile, according to research in the *Strategic Framework*, the residential density of the San Antonio downtown remains roughly the same as that of the rest of the city.

To combat this trend, the *Strategic Framework* recommends adding 7,500 housing units downtown by 2020 and

suggests that up to 10,000 units could be supported by the economy in the same period of time, but only with heavy investment by the City of San Antonio.

Challenges in creating this additional housing arise, however, due to the nature of the real estate economics of the San Antonio CBD. Specifically, many properties in the CBD are heavily geared toward the convention industry, with hotels and restaurants on the Riverwalk demanding premium rents. This reality, combined with the permissive nature of zoning in the CBD means that mixed-use or residential economics are distorted because every piece of land is valued to existing owners at its highest possible use, that of a hotel.

Analysis done in the *Strategic Framework* study shows that for a residential building to be constructed in the CBD, it would cost approximately \$185,000 per unit, while the capitalized value of the unit's net operating income at current market rent levels is \$158,000. This means that a significant gap exists between market value and cost.^{xix}

With such a large gap, the market is stuck unless a developer receives a grant or subsidy to make up the difference. For this reason, the City of San Antonio approved the Center City Housing Incentive Policy (CCHIP) in June 2012. The CCHIP applies to multi-family rental and for-sale housing projects within a target area that includes the CBD. The policy provides a number of different incentives to encourage residential redevelopment including fee waivers,

tax reimbursement grants, an Inner City Incentive Fund (ICIF) loan of \$3,000 to \$6,000 per unit, and a mixed-use forgivable loan. Special consideration under the policy is given to residential developments that are mixed-income housing, adaptive reuse, historic rehabilitation, high-rise residential, student housing, or transit-oriented.

While CCHIP is a huge step in the right direction toward incentivizing development, many private sector developers interviewed for this research report that it is not enough. The main complaint about the CCHIP is that its incentives are not sufficient to convince investors and developers to take the risk of building residential units downtown. In fact, the only grant built into the program is the tax reimbursement grant, the effects of which can only be roughly estimated by developers evaluating a potential deal. This grant provides for a rebate of up to 100% on the improved post-development value of a property in a Tax Increment Reinvestment Zone (TIRZ) and a rebate of 66% on the previous year's real property tax increment if the project is not within a TIRZ. The mixed-use forgivable loan associated with CCHIP can be applied toward the tenant finish-out improvements of the initial tenant of a new project, provided that the loan is a direct pass-through to the tenant, but this does not directly benefit the developer.^{xx}

Another limiting characteristic of the CCHIP is that it only applies to residential properties. While this is certainly inline with the COSA's "housing first" strategy for the

redevelopment of downtown, it will do little to spur developers to redevelop the vacant historic and underutilized properties in question, as most of them are commercial buildings.

Other grant monies are available to developers through the Economic Development Incentive Fund (EDIF) in an amount up to 1.5% of the initial investment and up to \$5,000 per job.^{xxi} However, this EDIF grant does not specifically target adaptive reuse projects or historic preservation projects. According to the *Strategic Framework* report, the EDIF was successfully used by a few recent residential developments but the average grant was only \$2,000-\$4,000 per unit.

In addition to city funds, The San Antonio Conservation Society offers small grants averaging \$5,000 to developers of historic buildings. These grants, however, are awarded by the Society only once per year and are not timely enough or large enough to make an impact for developers of commercial buildings.

Real estate developers interviewed for this research widely praised the COSA Inner City Reinvestment/Infill Policy (ICRIP) as an example of a city program that incentivizes redevelopment. Designed to expedite and encourage projects in the inner city, the ICRIP waives many city fees normally associated with development and can be a huge boost to the economics of many smaller projects like the redevelopment of vacant historic and underutilized properties in the CBD.

Another major challenge that redevelopers of historic vacant properties face is the lack of available on-street parking at the properties in question. For a commercial property in San Antonio, customer parking is the lifeline that keeps revenue coming through the door. When that parking is taken away, businesses dry up, buildings go vacant, and unsightly surface parking lots appear.

It is of little surprise, then, that a nearly 100% correlation exists between the availability of onsite street parking at a property and the location of historic vacant buildings in the San Antonio CBD that were identified for this PAE. Figure 8 shows the striking visual representation of this relationship, with vacant historic buildings shown

in black and on-street parking shown in color.

Opponents of on-street parking might say that it causes congestion and slows traffic. But the reality is that on-street parking is ubiquitous in cities like Austin and Boston. It aids in the density that the CCHIP and EDIF strive to create, makes surface lots downtown increasingly irrelevant, and is often accompanied by public bicycle racks, which encourage even more traffic. Moreover, every major hotel in the San Antonio CBD has a curb cut for parking and/or valet service, so it is certainly possible for stakeholders to retroactively modify sidewalks through funding and political will.

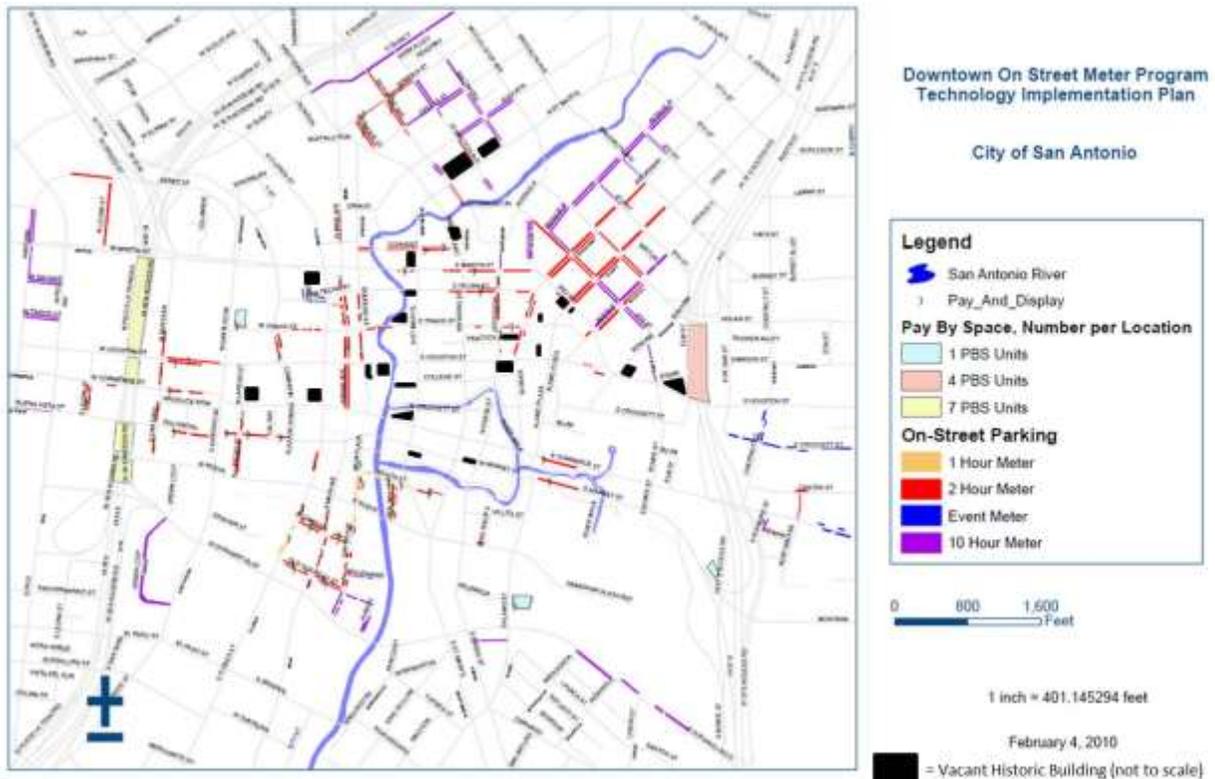


Figure 8: Relationship Between On-Street Parking and Historic Vacant Buildings (Source: CCDO, Author)

Lack of Property Owner
Motivation/Land Speculation

One of the most notorious vacant historic buildings in the CBD list is at 601 N. St. Mary's Street and is known as the Hedrick Building. Constructed in 1928, it is an office building that has been owned by the same owner and held vacant for more than 20 years. Since he acquired the property at a foreclosure sale, the owner's building has been the subject of numerous news reports, discussions by COSA officials, and litigations by the city that have not yet resulted in either a sale or redevelopment.

Because his building is an historic structure, the owner is not permitted to raze it for redevelopment. And as long as the property taxes are being paid on his building, the owner faces few financial pain points to cause him to reposition his building, the exception being his expenses incurred to ensure that the property does not violate the COSA health and safety code described earlier. The building's owner also benefits from extremely low assessments of property taxes, the harms of which to the COSA were described in a previous section. His building sits on 5,000 square feet of land and is listed at 43,525.2 square feet by BCAD. Yet his land is assessed at \$226,000 (\$45.20 psf) and his building is assessed at only \$1,000 (\$0.02 psf), giving him no motivation to sell or redevelop.

The owner's attitude toward the property, and his lack of motivation to redevelop it, is best illustrated by a quote he gave to the *San Antonio Express-News* for a 2007 story it ran

on the property. When asked why he had kept his building vacant so long, he replied, "I come from India. We have buildings in our family that are owned for several generations. Some of the bigger projects require more than 10, 15 years...So I don't think it has been long."^{xxii}

As discussed earlier, permissive zoning downtown leads to distorted property values as owners like this value their land for a potential future hotel development. The longer an owner of a vacant building in the CBD keeps a building empty, the more likely it then becomes that they no longer seek to redevelop the building and simply become land speculators.



Hedrick Building, San Antonio, Texas

The same situation, relevant though outside the scope of this report, has also led to long-term ownership of surface parking lots in the CBD with no incentive to redevelop them into usable space.

Stakeholders Lack Unified Front

Most people concerned with the smart redevelopment of the San Antonio CBD would agree that historic preservation and redevelopment must be a priority of all stakeholders involved for change to come to about. However, there are many stakeholders with a wide array of interests that are difficult to align.

To illustrate this misalignment of interests, I will discuss the stakeholder incentives surrounding the policy of tax abatements of historic properties, though a similar thought experiment can and should be carried out when considering any

policy change.

Consider the perspective of the San Antonio Independent School District (SAISD) in working with the city to pursue policies that might incentivize the redevelopment of historic properties in the CBD.

The SAISD is responsible for educating all children who reside in the San Antonio CBD, among other areas. It derives a portion of its annual budget revenues from property taxes collected by the businesses and property owners of the CBD, and each of the priority property owners at the subject of this report pay the largest portion of their property taxes to the SAISD. At a rate of 1.3576%, the SAISD tax rate comprises the largest portion of a CBD property owner's tax bill, at a rate of almost three times that of the San Antonio city property tax (0.56569%).^{xxiii} Figure 9 illustrates

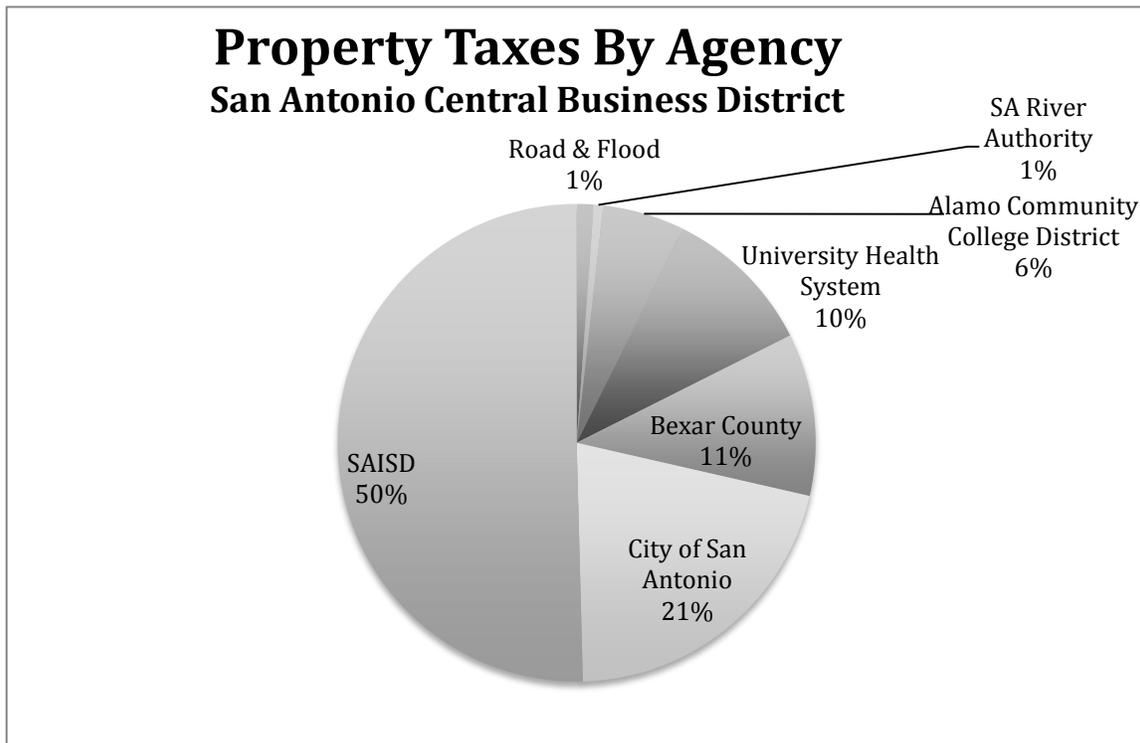


Figure 9: Property Tax Proportions in San Antonio CBD (Source: BCAD)

these and other property taxes in proportion to a property owner's overall property tax bill.

The SAISD possesses the ability to offer economic development incentives to commercial enterprises in the CBD in the form of Freeport Exemptions.^{xxiv} These exemptions, however, do little to encourage historic preservation. So while city tax abatement exists for historic preservation, a developer has little tax incentive from the SAISD to restore a property when it is certain that the bulk of his/her tax bill will rise due to these school district taxes.

SAISD leadership cannot be blamed for not wanting to abate property taxes to incentivize redevelopment of historic vacant properties in the San Antonio CBD, as it indicated was its position during research for this study. As the third-largest school district in the San Antonio area, the SAISD educated over 54,000 students in 2012, 92.8% of whom are from economically disadvantaged backgrounds, with a budget of \$480 million.^{xxv} The district accomplished this feat by employing a property tax rate that ranks 12th lowest out of the 17 schools in the area ranked by BCAD. The implication here is that the SAISD needs all of the tax revenues it can get to effectively educate its students and likely will not join the COSA and other stakeholders in agreeing to abate the incremental tax revenues from historic renovations. SAISD leaders may also be under pressure from Texas officials who could potentially reduce the district's funding if they took issue with the

district offering tax incentives for historic renovations.

However, the decision to not abate historic renovations is somewhat myopic. If such a policy were implemented and led to historic building redevelopments, property values would rise over time, and the SAISD would see increased revenues from numerous properties, not just those historic ones that received a temporary tax abatement

In addition to SAISD and the COSA, there are several other stakeholders with significant interest in the redevelopment and future occupancy of the vacant historic and underutilized properties, and it is essential that all parties involved attempt to align their efforts to move the market. One needs only to think about the backlash from the convention industry if hotel development were disincentivized, to quickly see how the alignment of stakeholders is easier said than done.

For their part, many residents of San Antonio enjoy coming downtown for special events, but do not consider it a place for them to raise a family or come visit on a regular basis. There are a number of reasons for this, including habit, opinion that downtown San Antonio is only for tourists, and the perception that SAISD schools are inferior to other public school districts around the city. To combat these perceptions and ultimately get tenants and residents into historic vacant buildings, the COSA and other interest groups must aggressively pursue a marketing campaign to convince all San

Antonians that the historic vacant properties in the Central Business District belong to all residents and that all residents are stakeholders.

San Antonio is not the only municipality in Texas faced with the issue of vacant commercial buildings, historic or otherwise. Not only do other Texas cities have the same problem, but they also operate within the same state legal regime as San Antonio. In that sense, other cities around Texas are also stakeholders in this problem, and it will likely take collective action on the part of many municipalities to effectively lobby the state legislature for any significant change to relevant laws.

7. Best Practices

While any viable solution for San Antonio must be crafted with local laws and market factors in mind, much can be learned from other communities around the country that have put measures in place to address some of the same issues facing the COSA. The following is a discussion of some of the best practices I have come across in my research.

School District Tax Abatements & Small Business Loans – City of Austin, Texas

Buoyed by a large university student population and the constant tenant demand that results from being the capital of state government, the real estate economy of downtown Austin is very different than that of San Antonio. Accordingly, there are few, if any, vacant properties in downtown Austin (historic or otherwise).

Nevertheless, Austin had a very aggressive historic preservation incentive plan that, while successful, did not come without controversy. In fact, it is the only major city in recent history in Texas wherein a school board, in this case the Austin Independent School District, abated property tax to incentivize historic preservation.^{xxvi}

While the merits of such a policy can be debated, particularly in the current economic climate, there is significant evidence that such policy had the desired outcome (albeit with some unintended consequences of public backlash) when it was disclosed that

over \$2 million of school district revenues had been abated.

In addition, in an effort to support small business and incentivize the use of historic properties in the Austin CBD, the City of Austin in 2009 created the *Business Retention & Enhancement (BRE) Loan Program*. Designed to incentivize small business owners who have at least two years of business operating to open an enterprise in the CBD, the program allows loans of up to \$250,000 for owners of business in the retail, food service, or arts/entertainment industry.

Activism & Awareness Campaign – Historic Fort Worth, Inc.

Just as San Antonio has its Conservation Society, Fort Worth, Texas has *Historic Fort Worth, Inc.* Historic Fort Worth, Inc. was established in 1969 and was selected in 2001 as a Local Partner of the National Trust for Historic Preservation.^{xxvii} Over the past decade or so, Historic Fort Worth, Inc. has gone from being simply an advocate for historic preservation in Fort Worth to being an activist in the community.

In 2008 the organization launched Fort Worth's first electronic survey of historic properties and created an online "Endangered Properties List." To hear the staff of Historic Fort Worth describe this effort, the Endangered Properties List was "a game changer."

Fort Worth suffered some of the same problems of urban blight and historic property vacancy that currently affect

San Antonio. For political and other reasons, city officials were limited in the actions that they could take against property owners. However, Historic Fort Worth, Inc. was not governed by the same set of rules.

Historic Fort Worth, Inc. created a website of properties that had historic meaning to the community and were in danger of being destroyed through vacancy and neglect on the part of the property owner. This online database contained information about the history of the building, including why it was important to the community. Historic Fort Worth aggressively marketed this database nationwide, which began to draw the attention of conservationists and real estate developers from around the United States. As was to be expected, many land owners were not happy about having their property on the website, but to Historic Fort Worth, Inc. this meant that their message of conservation and adaptive reuse were getting across to owners and drawing attention to the needs of their town.

Once it created the Endangered Properties List, Historic Fort Worth partnered with a local university professor who had his students create business plans and financial models for the commercial reuse of the existing vacant properties. Some of these business plans were then mailed to the owners of endangered properties along with letters encouraging owners to find a new use for their building and educating them about the various economic incentives in place for doing so. The letters to property owners also included information about other properties

around the state and country that had been adapted for reuse and a history of why their particular property was important to the community's past.

Historic Fort Worth, Inc.'s efforts did not stop with the letters. The group began hosting a regular conservation luncheon and inviting elected and appointed city leaders as well as the owners of the endangered properties to come together and discuss the benefits of redevelopment for the community at large. Admittedly, very few elected city leaders and property owners showed up at the luncheons, but the local media was there to report on the event and show the citizens of Fort Worth who was or was not in attendance.

Such activism takes work and the willingness to be exposed to the public eye, but for Historic Fort Worth, Inc., the results spoke for themselves. Buildings slowly started to turn around, as some property owners began feeling a responsibility to redevelop their vacant historic building or sell it to someone who would.

Civil Penalty Enforcement Leading to Bankruptcy & Sale – City of Fort Worth, TX

Under the powers granted to it under Chapter 54 of the Local Government Code that was previously discussed, the City of Fort Worth began aggressively targeting owners of vacant properties that were contributing to urban blight. Though not an exact parallel to the San Antonio problem of vacant commercial properties in the CBD, the City of Fort Worth experience

nonetheless demonstrates that civil penalties are an effective tool against owners of historic vacant properties who refuse to redevelop them.

In *City of Fort Worth vs. Martinez*, the city petitioned the District Court that dilapidated conditions of the Martinez property were harming and endangering neighboring properties through a collapse hazard and haven for rodents and other vermin. The property had been broken into by vagrants and used as a shelter, thereby also constituting a substantial risk of fire. Also of note, the city emphasized to the court that, “...the conditions found at 1900 5th Ave. serve to adversely affect the value and marketability of neighboring properties due to their close proximity to the substandard conditions of the property.”^{xxviii}

On September 4, 2007, the court ruled in favor of the City of Fort Worth in the Martinez case, determining that the owner of the property had been in violation of municipal code for 6,690 days and his daughter, the new trustee of the property, in violation for 320 days. The defendant and the trustee in the case were forced to pay \$10.00 per day for the duration of the violation, thereby imposing a civil fine on the defendant of \$66,900 and a fine of \$3,200 on the trustee. Unable to pay the steep fines, the Martinez family filed for bankruptcy and was granted refusal of writ on the civil penalties by the Texas Supreme Court. However, the bankruptcy court then forced the Martinez family to sell the property at auction, and the City of Fort Worth received 50% of all liens

against the property, including the civil penalties judgments.

In the end, Fort Worth got its desired outcome of new ownership of a vacant building through legal activism. It forced the owner of a vacant historic property to sell his blighted building, gained funds at the sale, and set a precedent for the future treatment of such properties.

Vacant Property Building Registration Ordinance – City of Dallas, Texas and City of El Paso, Texas

In 2008, the City of Dallas, Texas under Chapter 48B of the Dallas City Code, created a Central Business District Vacant Building Registration Ordinance.^{xxix} The Dallas ordinance requires owners of vacant buildings in the CBD to register their properties and pay a registration fee of \$75, an inspection charge of \$185, and an additional fee based on the size of the building.

According to the Texas Problem Properties Toolkit, Dallas vacant building owners “...must submit a plan detailing a time schedule for correcting violations, a maintenance plan, or plans for renovations or sale of the building. The owner is required to submit an updated plan at least once every six months. Violations of the ordinance can result in criminal penalties, civil fines ranging from \$500 to \$2,000, and administrative penalties. The owner must carry commercial general liability coverage with a minimum combined bodily injury and property damage limit of no less than \$2,000,000 annually.”^{xxx}

In 2011, the City of El Paso, Texas also adopted a very aggressive vacant building registration program targeted at several specific “enforcement areas” around the city. Vacant buildings in El Paso must be regularly inspected, insured by the owner, and owned by someone who can respond to an emergency at the property within an hour’s notice. In addition to the fees associated with the registration program, the City of El Paso assesses significant financial penalties to absentee owners and owners who fail to comply with the ordinance.

Such aggressive policies on the part of both Texas cities communicate to owners that long-term vacancy is unacceptable and extremely costly. These policies have a desired outcome of either forcing an owner to sell or to obtain an occupant.

Historic Preservation Grants from Bonds – City of Phoenix, Arizona

In 1989, voters in Phoenix, Arizona approved \$15 million in general obligation bonds to fund the city’s Historic Preservation Program.^{xxxii} Of this money, Phoenix set aside \$10 million for the Exterior Renovation Initiative, a new program designed to encourage maintenance, repair, and reinvestment in historic residential homes. New bond revenues were generated again in 2001 and 2006 to recapitalize the fund. Grants of up to \$10,000 for external renovation can be awarded by the city for costs dedicated to improving the exterior of an historic property or to soft costs associated with the engineering or renovation construction of the property.

Public Shaming – Syracuse, New York

When vacant buildings exist with significant code violations, some cities like Syracuse, New York, have the authority to publicly shame the owner of the property. Such action takes the form of a sign on the building with the name and contact information of the building owner. This public shaming is also a component of several vacant building registration programs.

Abandoned Urban Property Tax – Louisville, Kentucky

Under its authority granted under state law, Louisville, Kentucky established an abandoned urban property tax. To be subject to penalty, the vacant structure must lie in a predominantly developed urban area that has been vacant or unimproved for at least one year and be tax delinquent for at least three years or violate municipal maintenance standards.^{xxxii} Once a building has been declared an abandoned urban property, it is subject to a separate classification of real property taxes, including an accelerated tax rate.

Vacant Property Occupancy Business Incentive Program – Forest Grove, Oregon

For businesses in Forest Grove, Oregon that move to occupy a current vacant building or rental space, the city offers fee waiver incentives. The business must be new to the city or must be an existing business that is growing its rented square footage by 10% or more.^{xxxiii} Similar programs offer varying incentives based on the square footage of previously vacant

space occupied and the duration of vacancy.

Commercial Vacant Property Receivership – State of New Jersey

New Jersey law allows municipalities (or their agent) to go to court to obtain an order of possession for abandoned or vacant buildings, both residential and commercial, to rehabilitate them and place them back into public use.² The statute was designed specifically for use on vacant properties, and not those in tax foreclosure status.

A qualified professional must declare that the building should be “...rehabilitated rather than demolished based on the physical, aesthetic or historical character of the building, or the relationship of the building to other buildings and lands within its immediate vicinity (N.J.S.A.55:19-85[b]).”^{xxxiv}

Once a New Jersey municipality obtains an order of possession from the court, it has full control over the commercial property and is allowed to borrow funds for rehabilitation and take any other steps necessary to put the building back into use.

²In Texas, current law only allows for receivership of residential buildings. The full provisions for the New Jersey vacant property receivership appear in N.J.S.A.55:19-84 through 97.

8. Recommendations

The preceding discussion and analysis of the numerous forces at work in the San Antonio Central Business District highlight the complexity of the situation as it stands. Yet, opportunities exist for finding ways to reduce or eliminate vacancies of historic properties in the San Antonio CBD.

Clearly, there will be no “silver bullet” or single policy tool that will cure the situation overnight, but what follows are several recommendations that deserve careful consideration and have the potential to bring tenants and responsible owners back to the vacant historic and underutilized properties. Some of the recommendations put forward herein are already under consideration by the COSA or other stakeholders, in which case my recommendation stands in support of the existing plans.

Additionally, a few of the recommendations address market forces that have indirectly led to the vacancies of historic properties but do not target the problem properties head-on. Some of these recommendations are part of the *Strategic Framework Plan*, and it is my suggestion that stakeholders continue to work together to implement the strategic plan. Following this discussion, Figure 10 summarizes the below recommendations and the vacant historic property force addressed by each. Accompanying each recommendation below is the stakeholder(s) recommended to take the lead for implementation.

a) Create a vacant property registration fee and program akin to the Dallas Downtown Vacant Building Registration Ordinance and the El Paso Vacant Building Ordinance.

The Dallas and El Paso vacant property registration ordinances offer excellent templates for San Antonio to use when creating a similar statute. Indeed, such a program has been proposed by the COSA and is currently working its way through government channels on its way to becoming law. Before the San Antonio program is fully implemented, I recommend that COSA officials study both the Dallas and El Paso programs to see if there have been any associated negative unintended consequences that can be avoided through smart design of the San Antonio program. The COSA should strongly consider including public shaming, mandatory building insurance, vacancy fees, and vacant-to-market plans as part of their program. *CCDO, OHP, SA City Attorney*

b) Explore ways to tie condemnation or receivership of a vacant historic property to time.

At present, the “demolition by neglect” statute is one of the few tools that the COSA has at its disposal to deal with buildings that have been vacant for a significant portion of time. While it may require a change to state law, the COSA should explore possible legal avenues to tying the condemnation or receivership of a vacant historic property to duration of vacancy, not just condition of building. *CCDO, OHP, SA City Attorney, State of Texas*

c) Work with BCAD to tax historic buildings in the CBD in a consistent manner that encourages their use.

No move to raise property taxes on the part of either the COSA or BCAD is going to be popular or easy to implement. But as highlighted in the case study and previous discussion, significant disparity exists between the tax basis of similar properties and something must be done to be more consistent in the valuation of historic buildings in the CBD. Future valuations must be done in a manner that assesses historic buildings' potential use, not their vacant condition. In the meantime, taxes on the land underlying the building should be brought more closely inline with one another. *CCDO, OHP, BCAD*

d) Create a CCHIP-like program for the (re)development of commercial properties.

The current CCHIP program does not incentivize the (re)development of commercial properties. While this is in keeping with the "housing first" strategy for the redevelopment of the CBD, it does not make an impact on the vacant historic properties in the CBD that are designed for commercial use. Thus, a new program aimed at commercial properties is needed. As with the CCHIP, this new program should offer additional incentives for the redevelopment of historic buildings, perhaps exclusively. *CCDO, OHP, SA City Council*

e) Install on-street parking in all locations in the CBD where it is physically possible. Supplement the parking with public bicycle racks.

The high correlation between a lack of on-street parking and vacancy in historic buildings in the CBD is no coincidence. For any commercial tenant who might consider moving into an historic building that is currently vacant, street parking is a must-have. The mere perception that parking is available de-risks the decision that both tenants and customers face when thinking about coming to the CBD.

Curb cuts for parking should be done wherever possible, dedicated bus lanes should be re-evaluated in favor of creating lanes with shared parking space, and entire lanes of traffic should be removed when necessary in favor of parking. Public bike racks should be added near clusters of target buildings to further assist commuters. Such actions will make for a more economically viable real estate market any properties in the CBD, historic or otherwise. *CCDO, OHP*

f) Weight current CCHIP incentives more heavily in-favor of redevelopment of historic residential properties.

The current CCHIP only offers a low-interest housing loan for residential units that qualify for one or more incentive programs, including mixed income, adaptive reuse, historic rehabilitation, and student housing. To accelerate the redevelopment of vacant historic properties, the COSA should make historic rehabilitation, adaptive reuse, and conversion of existing vacant properties their own categories, and make each one eligible for grant money or subsidy on top of loans.

Partial redevelopments should also be encouraged. For example, if a vacant or underutilized property is suitable for upper-floor residential redevelopment under CCHIP, developers should be eligible for CCHIP incentives even if they do not undertake the redevelopment of the building's street-level retail. *CCDO, OHP, SA City Council*

g) Raise general obligation bond revenue for a Historic Preservation Incentive/Grant Fund.

Model a program after the Phoenix, Arizona program to raise general obligation bond revenue for historic preservation projects. Conduct an economic analysis to determine the size of grant that would be necessary on a per square foot basis to incentivize developers to undertake the redevelopment of an historic building. *CCDO, OHP, SA City Council*

h) Work with San Antonio Independent School District (SAISD) and State of Texas to study whether or not a property tax incentive can be granted for the preservation and redevelopment of historic properties. A similar incentive could be created by Bexar County as well.

The economics and politics behind a school district providing tax incentives to spur development are tricky, but not unprecedented in Texas. COSA should work with SAISD and the State of Texas to develop a long-term view of the benefits of historic building redevelopment and determine whether a property tax abatement can be made. Central to the argument is the fact that abated

taxes on property improvement are taxes that the school district is not currently receiving absent development, but will one day recognize due to the incentive. A similar argument can be made to Bexar County to offer abatement incentives on its portion of the property tax bill. *CCDO, OHP, SA City Council, SAISD, BCAD*

i) Have developers create a "wish-list" of construction materials that would be needed for redeveloping historic properties. Partner with Home Depot, McCoy's, etc. to get these items donated to the San Antonio Conservation Society.

Donations of materials would significantly reduce the hard costs of historic property renovations for developers and therefore help to de-risk such an undertaking. Once an historic redevelopment is underway, the Conservation Society, in partnership with local hardware stores, could solicit donations for the project from local hardware stores. These donations can then be turned over to developers or sold by the Conservation Society at a significant discount. *CCDO, OHP, SA Conservation Society, Real Estate Developers*

j) Revise the COSA Economic Development Incentive Fund (EDIF) to give additional grants to developers of historic properties.

The current EDIF offers a grant of an amount not to exceed 1.5% of total overall investment in targeted areas, to include the CBD. This is a great incentive, however it makes no distinction between new developments and projects that are redevelopments of historic properties,

adaptive reuse developments, or those projects that target a previously vacant building. COSA should evaluate the grant requirements to determine if an additional grant in the amount of 0.5-1.0% can be added for the redevelopment of historic buildings. *CCDO, OHP, SA City Council*

k) Lobby the State of Texas to refund the sales tax on materials and labor on historic redevelopment projects approved by OHP or similar municipal agencies in other cities in the state.

Texas does not apply sales tax to labor applied to new commercial construction, but it does tax materials and labor for the remodeling of non-residential buildings. This practice is known informally as the “Remodeling Tax,” and is a disincentive to developers who want to redevelop historic properties for non-residential use. The existing law exempts routine maintenance work from labor and material taxes, but requires contractors to prove that the work is maintenance only and not repair or remodeling work.

A proposal to change this law was submitted by OHP for consideration in 2012 to the COSA but it was not submitted to the state. Under current provisions, buildings that are listed on the National Register of Historic Places are exempted from the Remodeling Tax by the State of Texas, but this exception does not cover the vast number of buildings recognized as historic by San Antonio and other Texas communities. The COSA should lobby the state to change this law so that historic redevelopments and adaptive reuse projects are treated

the same as new construction under the Texas Tax Code. *CCDO, OHP, COSA, Other Texas Cities*

l) Establish a partnership with Frost Bank or another local partner to purchase Historic Tax Credits (HTCs) and structure historic redevelopment deals.

Available since 1978, certified historic income-producing structures are eligible for HTCs equal to 20% of the cost of rehabilitation of the property. Properties built before 1936 and that are not considered as historic are eligible for a credit equal to 10% of the cost of rehabilitation.^{xxxvi} However, this Federal incentive is rarely used. According to the Texas Historical Commission, only about 12 projects a year in Texas take advantage of this tax credit, compared to other states that have upwards of 300 per year. This is due in part to the fact that Texas does not have a state income tax, so few individuals seek tax credits, but a local corporate buyer like Frost Bank may be the perfect partner to join forces with and make more robust use of this program. *OHP, Developers, Financiers*

m) Create a Vacant Property Occupancy Business Incentive Program

The COSA Economic Development Foundation should administer this incentive program that would waive startup fees for businesses that occupy previously vacant space. Incentives can be scaled based on amount of previously vacant space occupied, length of previous vacancy, etc. *CCDO, OHP, SA City Council*

n) Establish a “Downtown Endangered Historic Buildings” Campaign.

Modeled after the campaign created by Historic Fort Worth, Inc., the Downtown Alliance (or perhaps another similar non-governmental interest group) should assume more of an activist role in making the public aware of the economic harms and historical damages being caused by the vacant historic properties in the CBD. The campaign should employ social media, news releases, awards for best practices, and frequent communication with vacant historic and underutilized property owners and residents of San Antonio. *CCDO, OHP, SA Development Services*

o) Introduce a restriction on further limited-service hotel development in the Central Business District or require a hotel development fee to fund historic redevelopment.

According to the *Strategic Framework for Center City Development*, hotels in the San Antonio CBD average a 65% occupancy rate throughout the year^{xxxvii} However these statistics include peak tourist season, which means that the median occupancy rate is likely much lower. While the COSA does not want to slow its tourism, it does want to discourage land speculation in the CBD and the distortion of land prices that leads to the vacancies of historic properties caused by owners hoping for permission to tear their historic building down and build a limited-service hotel in its place.

This issue can be addressed in a few ways, primarily through a rezoning of certain areas of the CBD to disallow hotel development, or a hotel development fee that goes toward supporting historic preservation in the CBD. A thoughtful policy can accomplish the objective of discouraging land speculation in the CBD while still preserving the hospitality industry that keeps downtown San Antonio vibrant. *CCDO, OHP, SA Development Services*

p) Aggressively enforce civil monetary penalties for municipal code violations and explore the amendment of municipal code to allow for stricter statutes.

Just as the City of Fort Worth was successful in forcing a vacant property owner into bankruptcy through aggressive enforcement of civil penalties associated with municipal code, so too can the COSA successfully use this tactic to ignite action on the part of vacant building owners. Aggressive inspection fees can also be levied against owners to compensate the COSA for the additional costs associated with increased inspections. *CCDO, OHP, SA City Attorney’s Office, SA Development Services*

q) Find a local celebrity to champion the revitalization of downtown San Antonio. Employ an ad campaign with this celebrity as part of the larger “Decade of Downtown” revitalization marketing effort.

The work that the San Antonio business community has done to date in revitalizing the downtown is truly admirable. More can be done to

spread the story of the great work going on in the CBD, and for this I recommend that the COSA find a local celebrity to become a champion of the redevelopment cause.

Someone like former Spurs star David Robinson (who also owns a local real estate investment firm), is an ideal candidate to champion the redevelopment of the CBD to the greater community because he has the power to get San Antonians to pay attention to his message. This local celebrity endorsement should be part of the “Decade of Downtown” marketing campaign that touts the benefits of downtown living and the exceptional performance of SAISD schools. *CCDO, OHP*

r) Create a ranking system of properties that gives priority to the redevelopment of certain historic properties over others.

For a number of reasons, it makes sense for the CBD stakeholders to prioritize which buildings they pursue first for redevelopment. Different scales can be used to rank properties, including but not limited to:

- Age of building
- Significance of property
- Duration of current vacancy
- Total cost of redevelopment
- Amount of incentive needed
- Size of building
- Difficulty of redevelopment
- Proximity of building to occupied buildings

A wide range of rankings will undoubtedly come from such an exercise. Therefore, when considering

which factors are most important to look at from the COSA perspective, I would argue that the most important are: proximity to occupied buildings, duration of vacancy, significance of building, and amount of incentive needed.

Additionally, several developers interviewed for this research commented that the COSA needs to view “old” and “historic” buildings differently. A ranking system that organizes buildings by priority will signal to developers which projects will have the utmost support from the COSA. *CCDO, OHP*

s) Establish an interagency task force to facilitate communication and increase effectiveness of stakeholders addressing historic vacant properties. Require stakeholders to attend meetings that will be held 1-2 times per month.

It is vital that there be seamless coordination and communication between the numerous COSA agencies and interest groups who are working to address the historic vacant properties in downtown. Anecdotal evidence from the numerous interviews conducted for this research suggest that communication between agencies could be better and that all parties involved would benefit from a more laser-like focus on the issues.

To accomplish this and ensure timely progress, the COSA should convene a Downtown Vacancy task force including, but not limited to, representatives from the CCDO, OHP, the Planning and Community Development Department,

Development Services, the City Attorney's Office, the Economic Development Department, and the Downtown Alliance. Meetings should be regularly scheduled 1-2 times a month at a standing time (e.g. 11:00 am every other Monday), and be mandatory. Other stakeholders like local real estate developers, property owners, and the San Antonio Conservation Society may be invited to attend.

At every meeting, the agenda should include:

- Updates from all agencies regarding their work on the COSA's top 5 priority properties
- Status of pending incentive packages
- Current or anticipated litigation
- Current and potential economic development deals and what each agency is doing to recruit the business to locate in the CBD
- Ideas for improvements to existing municipal code that can help address CBD vacancies
- Ideas for improvements to existing economic development incentives that can help address CBD vacancies
- Needs from state or federal agencies for current or future projects

CCDO, OHP, SA Development Services, SA City Attorney's Office, Planning and Community Development Department

t) Create a statewide coalition of cities to effectively lobby the state legislature for change to laws that affect vacant commercial properties.

Whether it is a change to Texas' laws to allow for receivership of commercial buildings, or a change in the law regarding how sales taxes are assessed on redevelopment projects, all communities in the state stand to benefit alongside San Antonio if legislative action occurs. It is more likely that the Texas Legislature will consider changes to any law if there is a collective action taken on the part of major municipalities in Texas to demonstrate how all of their communities will be positively impacted by legal change. Therefore, San Antonio should take the lead on creating a statewide commission designed to advise the Texas Legislature on needed policy changes to address vacant commercial properties around the state. Within the policies and advocacy work of this commission, special attention should be paid to historic properties. *CCDO, OHP, SA City Attorney's Office, Other Texas Cities*

<i>Summary of Historic Vacant Property Causal Forces and Recommendations to Address Them</i>
1) Property Rights and Municipal Code Favor Landowners
<ul style="list-style-type: none"> • Create a vacant property registration fee and program using best practices from the Dallas Downtown Vacant Building Registration Ordinance and the El Paso Vacant Building Ordinance. • Explore ways to tie condemnation or receivership of a vacant historic property to time.
2) Low Property Tax Assessments Disincentivize Redevelopment
<ul style="list-style-type: none"> • Work with BCAD to tax historic buildings in the CBD in a consistent manner that encourages their use.
3) Market Economics of CBD Make Redevelopment and/or Occupancy Risky
<ul style="list-style-type: none"> • Create a CCHIP-like program for the (re)development of commercial properties. • Install on-street parking in all locations in the CBD where it is physically possible. Supplement the parking with public bicycle racks. • Weight current CCHIP incentives more heavily in-favor of redevelopment of historic residential properties. • Raise general obligation bond revenue for a Historic Preservation Incentive/Grant Fund. • Work with San Antonio Independent School District (SAISD) and State of Texas to study whether or not a property tax incentive can be granted for the preservation and redevelopment of historic properties. A similar incentive could be created by Bexar County as well. • Have developers create a “wish-list” of construction materials that would be needed for redeveloping historic properties. Partner with Home Depot, etc. to get these items donated to the San Antonio Conservation Society. • Revise the COSA Economic Development Incentive Fund (EDIF) to give additional grants to developers of historic properties. • Lobby the State of Texas to refund the sales tax on materials and labor on historic redevelopment projects approved by OHP or similar municipal agencies in other cities in the state. • Establish a partnership with Frost Bank or another local partner to purchase Historic Tax Credits (HTCs) and structure historic redevelopment deals. • Create a Vacant Property Occupancy Business Incentive Program

Figure 10: Summary of Historic Vacant Property Causal Forces and Recommendations to Address Them

<p>4) Lack of Property Owner Motivation/Land Speculation</p> <ul style="list-style-type: none"> • Establish a “Downtown Endangered Historic Buildings” Campaign. • Introduce a restriction on further limited-service hotel development in the Central Business District or require a hotel development fee to fund historic redevelopment. • Aggressively enforce civil monetary penalties for municipal code violations and explore the amendment of municipal code to allow for stricter statutes.
<p>5) Multiple Stakeholders Lack Aligned Incentives</p> <ul style="list-style-type: none"> • Find a local celebrity to champion the revitalization of downtown San Antonio. Employ an ad campaign with this celebrity as part of the larger “Decade of Downtown” revitalization marketing effort. • Create a ranking system of properties that gives priority to the redevelopment of certain historic properties over others. • Establish an interagency task force to facilitate communication and increase effectiveness of stakeholders addressing historic vacant properties. Require stakeholders to attend meetings that will be held 1-2 times per month. • Create a statewide commission of cities to effectively lobby the state legislature for change to laws that affect vacant commercial properties.

Figure 10 (cont): Summary of Historic Vacant Property Causal Forces and Recommendations to Address Them

9. Conclusion

“San Antonio is a unique city in many senses. Perhaps the most important of these is that it is a city where much of the past still seems alive.”

--T.R. Fehrenbach

San Antonio is known around the world today for its storied history and the city’s graceful juxtaposition of modern architecture among its old world treasures; historic preservation is vital to both the city’s past and future. But while the San Antonio of 2013 experiences unprecedented growth and a renewed emphasis on revitalization, the historic Central Business District of the city has not yet reached its fully restored potential.

Several forces drive this outcome, and while there is no single or quick solution to the problem of historic vacant buildings in San Antonio’s Central Business District, there are legal, economic, and practical ways that the city can begin to move the market. In seeking out these solutions and putting them into action, the leaders of San Antonio can help to ensure that the city’s past comes back to life and remains alive for generations to come.



Mission San Jose, San Antonio, Texas

Appendix - Interviewees

David Adelman – President, *AREA Real Estate, LLC* & District Council Chairman, *Urban Land Institute of San Antonio*

Karl Baker – Associate, *Golden Steves Cohen & Gordon LLP*

Diego Bernal – District 1 City Councilman, *San Antonio City Council*

Ben Brewer – President, *Downtown Alliance San Antonio*

Robert Duclos – Land Appraisal Supervisor, *Bexar County Appraisal District*

Larry Garza – Chief Financial Officer, *San Antonio Independent School District*

Omar Gonzalez – Director of Planning, Operations, and Development, *Hemisfair Park Area Redevelopment Corporation*

Steve Hilbig – Former Bexar County Criminal District Attorney and Former Justice, *Texas Fourth District Court of Appeals*

Lori Houston – Director, *Center City Development Office, City of San Antonio*

Isabel Howard – Former Researcher, *Center City Development Office, City of San Antonio*

Trey Jacobson – Managing Director of Government Affairs, *Golden Steves Cohen & Gordon LLP*

David Komet – Real Estate Developer, *Alterninvest*

Jim Kopp – Assistant City Attorney, *City of San Antonio*

Bruce McDougall – Executive Director, *San Antonio Conservation Society*

Alyson McGee – Deputy Historic Preservation Officer, *City of Austin*

David McGowan – Real Estate Manager, *Center City Development Office, City of San Antonio*

Dan Markson – Senior Vice President, *The NRP Group, LLP*

Shanon Miller – Director, *Office of Historic Preservation, City of San Antonio*

Benjamin Olivo – “Downtown San Antonio” Columnist, *San Antonio Express News*

Brad Patterson – Division Director, Certified Local Government, *Texas Historical Commission*

Margaret Shaw - Economic Redevelopment Program Manager, *City of Austin*

Randy Smith – President, *Weston Urban Development*

Jerre Tracy – Executive Director, *Historic Fort Worth, Inc.*

Lindsey Wallace – Information Coordinator, Preservation Division, *National Preservation for Historic Trust*

Author's Note

To everyone engaged in making the City of San Antonio a more vibrant place to live, work, and play, thank you. For our city to grow and prosper, we all must be willing to look critically at ourselves and our economy and work for improvement on a daily basis.

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