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Addressing Rural Blight: Lessons from West Virginia and WV LEAP

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Addressing Rural Blight: Lessons from West Virginia and WV LEAP

Ann Eisenberg

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When we think of “blight,” we tend to think of Baltimore, Detroit, or any number of Rustbelt cities and urban centers with comparable issues.¹ Generally, “blight” refers to concentrations of vacant, abandoned, or

1. The fight against blight is not unique to one area of the United States. From Baltimore to Detroit to Albuquerque, American communities struggle to deal with concentrations of empty and dilapidated buildings. Timothy Williams, *Blighted Cities Prefer Razing to Rebuilding*, N.Y. TIMES (Nov. 12, 2013), http://www.nytimes.com/2013/11/12/us/blighted-cities-prefer-razing-to-rebuilding.html?pagewanted=all&_r=0; Kate Abbey-Lambertz, *Detroit’s Abandoned Building Problem Is an Actual “Blight Emergency,” Says City Manager*, HUFFINGTON POST (Sept. 16, 2013), http://www.huffingtonpost.com/2013/09/16/detroit-abandoned-building_n_3921417.html; Dan Mayfield, *Council Approves Redevelopment Plan for “Blighted” Stretch of Central*,

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dilapidated properties associated with a variety of problems, although definitions vary and may be a source of controversy.² Blight has indeed increasingly come to characterize urban settings in the United States over the past several decades.³ But blight affects rural areas as well,⁴ and surprisingly little attention has been devoted to the problem of rural blight.⁵ Rural blight is largely absent not only from the public dialogue, but also in scholarship focused on the land use, property, and

Albuquerque Bus. First (Dec. 3, 2013), <http://www.bizjournals.com/albuquerque/news/2013/12/03/council-redevelopment-west-central-ave.html>.

2. To formally deem an area “blighted” for redevelopment purposes, state statutes tend to require a number of criteria, including structural defects, health hazards, faulty planning, taxation issues, lack of necessary amenities and utilities, cloudy property titles, economic non-use of the land, vacancy, and natural or geological influences. Hudson Hayes Luce, *The Meaning of Blight: A Survey of Statutory and Case Law*, 35 REAL PROP. PROB. & TRUST J. 389, 396 (2000).

3. Over the course of the past several decades, population shifts, transitions in industrial sectors, aging housing stock, the Great Recession, and the subprime mortgage crisis have all exacerbated the problem. Elizabeth M. Tisher, *Re-Stitching the Urban Fabric: Municipal-Driven Rehabilitation of Vacant and Abandoned Buildings in Ohio's Rust Belt*, 15 VT. J. ENVT. L. 173, 174 (2013). Blight results from an already downturned local economy and then contributes to a further downward spiral by creating health and safety hazards, catalyzing crime, keeping new residents and businesses away, and reducing tax revenue. “A recent Brookings Institution study found that from 2000 to 2010 the number of vacant housing units nationally had increased by 4.5 million, or 44 percent.” *Id.* at 174–75, 179–83; Nicholas Leonard, Note, *Utilizing Michigan Brownfield Policies to Incentivize Community-Based Urban Agriculture in Detroit*, 3 MICH. J. ENVT. & ADMIN. L. 421, 426 (2014).

4. Vice President of the Center for Community Progress Kim Graziani notes that neglected properties “can have a tremendous impact” on rural areas. Peter Slavin, *In 13 States, Land Banks Stabilizing Weakened Municipalities*, URB. LAND (Jan. 23, 2015), <http://urbanland.uli.org/economy-markets-trends/13-states-land-banks-stabilizing-weakened-municipalities/>. See also Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 486 n.86 (2014); Shannon Van Zandt, Dawn Jourdan, Cecilia Giusti & June Martin, *Small-Town Housing Needs: Resource Inefficiencies and Urban Bias*, 39:3 J. CMTY. DEV. SOC'Y 76 (2009); cf. Michael Murray & Larry Dunn, *Capacity Building for Rural Development in the United States*, 11:1 J. OF RURAL STUD. 90–91 (1995) (discussing how “[t]he distress of much of rural America is . . . deeply rooted and wide ranging” and that there is “nothing short of a litany of multiple rural disadvantage across many parts of the United States,” including persistent higher poverty rates and the “common [mis]perception that poverty is an urban issue”).

5. Van Zandt et al., *supra* note 4, at 76; cf. Housing Alliance of Pennsylvania, *Rural Housing*, <http://www.housingalliancepa.org/issues/rural-housing> (“Rural areas face many of the same challenges as cities and suburbs: blight, foreclosure, homelessness, a lack of affordable housing. However, the lower density of our rural areas often leaves them with even fewer resources to address these critical issues. Many rural areas lack service providers, non-profit developers, and local

local government tools that help communities mitigate and remediate blight.⁶ Commentators who acknowledge the need to address rural blight tend to do so in conversations that also include urban blight.⁷ Despite wide acknowledgement that blight-redemption strategies are complex and locale-specific,⁸ a common implication seems to be that tools for blight redemption in cities can and should be adjusted and used for rural settings—what Lisa Pruitt and others call an “urbano-normative” perspective.⁹

Rural communities differ from urban ones in many important ways, ranging from geographical layouts to local economies and cultural values.¹⁰ Disparities in resources may be the most salient difference: a small, rural town is less likely to have the institutions and services necessary to engage in effective planning; conduct effective code enforcement;

housing trust funds, leaving them with fewer tools to address these challenges.”) (last accessed Feb. 3, 2015).

6. Van Zandt and her co-authors argue that “[n]on-metropolitan areas . . . have been left out of discussion on regional equity and social justice” altogether. Van Zandt et al., *supra* note 4, at 76. See also Debra Lyn Bassett, *Distancing Rural Poverty*, 13 GEO. J. ON POVERTY L. & POL’Y 3, 4 (2006) (arguing that “[t]he omission of any serious focus on rural areas following Hurricane Katrina is consistent with the lack of attention given to rural areas generally”).

7. Despite some resources that include rural concerns in their materials, resources that focus specifically on the unique needs of rural communities tend to be regional in focus, Payton Heins et al., *Take It to the Bank: How Land Banks Are Strengthening America’s Neighborhoods*, CTR. FOR CMTY. PROGRESS 12 (2014), http://www.communityprogress.net/filebin/Center_for_Community_Progress_-_Take_it_to_the_Bank_-_2014_-_Updated_Online_Version.pdf; *Community and Economic Vitality*, Cornell Univ. Cooperative Extension, <http://cce.cornell.edu/program/community> (discussing programmatic support for rural and regional development); Murray & Dunn, *supra* note 4 (discussing the Colorado Rural Revitalization Project, a partnership of universities and a state government department). Professor Ezra Rosser argues that “[t]he legal literature on building codes and housing focuses almost entirely on urban development, largely ignoring rural housing conditions and development.” Ezra Rosser, *Rural Housing and Code Enforcement: Navigating Between Values and Housing Types*, 13 GEO. J. ON POVERTY L. & POL’Y 33, 33 (2006).

8. Kory T. Bell, *One Nail at a Time: Building Deconstruction Law as a Tool to Demolish Abandoned Housing Problems*, 45 IND. L. REV. 547, 548 (2012); Heins et al., *supra* note 7, at 12 (land banks are not silver bullets for communities struggling with blight, but must be complemented with other community strategies and activities); Tisher, *supra* note 3, at 180–81 (discussing balancing historic preservation and demolition strategies); Leonard, *supra* note 3.

9. See, e.g., Heins et al., *supra* note 7, at 58; Pruitt & Showman, *supra* note 4, at 486 n.86 (an “urbanormative lens presuppose[s] easy access to most of life’s basic needs and wants,” but “[f]or rural communities, a premium must be paid in order to gain access to these taken-for-granted facets of life”).

10. Pruitt & Showman, *supra* note 4, at 485.

and if needed, acquire the title to a neglected property and dispose of it in an economically sustainable way.¹¹ Although urban governments also struggle with these issues, rural communities may lack basic legal tools, such as a building code.¹² Meanwhile, urbano-normative discussions tend to presuppose structured governments, legal frameworks, and diverse resources that can be drawn upon.¹³ This disconnect can “lead to policies and funding mechanisms that are formulated for metropolitan problems but are applied with a broad brush”¹⁴ and to laws “being dictated by an urban majority” to “govern the rural culture,” despite being “ignorant of the ways of the people whose lives they are controlling.”¹⁵

Receivership provides a good example of a legal mechanism gaining popularity in cities, but which may not be ideal for a rural setting.¹⁶ Under receivership, “control of . . . property is temporarily taken from the owner and placed with a court-appointed officer.”¹⁷ The receiver then borrows money against the property to pursue rehabilitation.¹⁸ Receivership presupposes several elements that are more likely to be available in an urban setting than a rural one: a property with enough value to borrow on, an available rehabilitator, a court with enough relevant knowledge and involvement to appoint a receiver, and an individual with the expertise and willingness to become a receiver.¹⁹ Overall, it is not clear

11. Cf. *id.* at 486–88 (“It is . . . a hallmark of rural living that residents must travel greater distances, at greater cost to access all sorts of services and institutions . . . includ[ing] courts, and . . . services provided by lawyers, as well as others that are often ancillary to legal issues[.]”).

12. Rosser, *supra* note 7, at 38.

13. Cf. George Homsy & Mildred Warner, *Defying the Odds: Sustainability in Small and Rural Places*, ICMA CTR. FOR SUSTAINABLE CMTYS. 1 (2013) (“While the likes of New York, Boston, Chicago, and Seattle have the money, expertise, and regional power base to implement large-scale sustainability programs, thousands of small cities and rural towns struggle to protect the environment.”).

14. Van Zandt et al., *supra* note 4, at 76; cf. *Rural Housing*, HOUSING ALLIANCE OF PENNSYLVANIA, <http://www.housingalliancepa.org/issues/rural-housing> (“Rural areas face many of the same challenges as cities and suburbs: blight, foreclosure, homelessness, a lack of affordable housing. However, the lower density of our rural areas often leaves them with even fewer resources to address these critical issues. Many rural areas lack service providers, non-profit developers, and local housing trust funds, leaving them with fewer tools to address these challenges.”) (last accessed Feb. 3, 2015).

15. Debra Lyn Bassett, *Ruralism*, 88 IOWA L. REV. 273, 292 (2003).

16. See, e.g., Kendall Taggart, *Cities Increasingly Use Receiverships to Deal with Blighted Homes*, CALIF. WATCH (Nov. 17, 2011), <http://californiawatch.org/dailyreport/cities-increasingly-use-receiverships-deal-blighted-homes-13626>.

17. *Id.*

18. *Id.*

19. Cf. Pruitt & Showman, *supra* note 4, at 486–88.

that city blight-redemption tools are the best option for use as rural blight-redemption tools.

Although residents of rural areas are in the minority in the United States, the rural population is estimated to be a substantial 20 percent,²⁰ meaning that issues affecting rural areas impact tens of millions of people. Approximately 72 percent of the land in the United States is rural.²¹ The United States also has more than 6,500 communities with populations between 2,500 and 50,000, and thousands of smaller communities with fewer than 2,500 residents.²² Issues relevant to these areas tend to remain invisible due to a “paucity of substantive news coverage on rural areas and issues that leaves most Americans with a sketchy sense of rural reality,”²³ in addition to other factors fueling invisibility.²⁴ The omission of rural issues in policy, legislation, advocacy, and the far-reaching ramifications of rural matters indicate that more tailored discussion is warranted on how to address rural blight.²⁵

This article argues that a framework for addressing rural blight should be built from the ground up and that designing such a framework tailored specifically to rural needs will be more effective than hoping that urban tools turn out to be adequate in rural areas. This analysis draws upon the fields of rural development and sociology as well as the West Virginia Legal Education to Address Abandoned and Neglected Properties program (WV LEAP) at West Virginia University College of Law’s Land Use and Sustainable Development Law Clinic (the WVU Land Use Clinic), a year-long initiative designed to equip communities in the largely rural state of West Virginia to better handle neglected properties. In Part I, the article discusses common characteristics of rural communities that may hamper their capacity to address blight and analyzes why some

20. 2010 Census Urban and Rural Classification and Urban Area Criteria, U.S. CENSUS BUREAU, <https://www.census.gov/geo/reference/ua/urban-rural-2010.html>.

21. Overview, U.S. DEP’T OF AGRIC. ECON. RES. SERV., <http://www.ers.usda.gov/topics/rural-economy-population/population-migration.aspx>.

22. *Small Towns, Rural Communities and Sustainability*, ICMA, http://icma.org/en/results/sustainable_communities/projects/small_towns_rural_communities_and_sustainability (last accessed Feb. 10, 2016).

23. *How to Talk About Rural Issues*, FRAMEWORKS INST. 1 (2008), http://www.frameworksinstitute.org/assets/files/PDF_Rural/How_to_Talk_Rural.pdf.

24. Van Zandt et al., *supra* note 4, at 76; Robin Runge & Christyne J. Vachon, *Planting the Seeds and Getting into the Field: The Role of Law Schools in Ensuring Access to Justice in Rural Communities*, 59 S.D. L. REV. 616, 616 (2014).

25. Cf. Murray & Dunn, *supra* note 4, at 91 (arguing that a “challenge for the 1990s must be the shaping of new strategies responsive to . . . enduring rural realities”); Dawn Jourdan, Shannon Van Zandt & Nicole Adair, *Meeting Their Fair Share: A Proposal for the Creation of Regional Land Banks to Meet the Affordable Housing Needs in the Rural Areas of Texas*, 19 J. AFFORDABLE HOUSING & CMTY. DEV. L. 147, 149 (2009).

legal tools typically used in an urban context may be inappropriate or unrealistic in rural contexts. Parts II and III provide background on the WV LEAP program and discuss what lessons the program revealed as to how rural communities in West Virginia are frequently impeded in efforts to tackle blight and how some of those communities manage to overcome those impediments effectively. Part IV recommends eight elements as components of a comprehensive rural blight-redemption strategy.

I. Rural Life and Ill-Fitting Urban Blight Redemption Tools

A. Rural Community Characteristics That Impede Blight Redemption

The traits of rural communities that undermine their capacity to combat blight are intertwined in a series of cyclical relationships related to larger social and economic issues.²⁶ For instance, low population numbers inhibit communities' ability to achieve economies of scale, limited local economies keep new businesses and job seekers away, and both issues make it more difficult to put a problem property to productive reuse.²⁷ To divide and label these relationships as distinct or unrelated may artificially isolate sub-parts within a complex social scenario. Notably, too, "[d]iversity among (and increasingly within) the nation's rural areas makes generalizing across the rural populace problematic[.]"²⁸

Nevertheless, this section assesses four traits as broad but discrete characteristics generalized to a rural context. These traits include (1) limited resources and economic activity in rural areas, (2) rural cultural tendencies, (3) limited planning and legal frameworks, and (4) the variability of rural issues.²⁹ These categories were chosen both for theoretical manageability and because these are among the salient differences between urban and rural communities.

It is important to note that substantial overlap exists as to blight redemption challenges in rural and urban areas. Many cities struggle mightily to deal with urban property decay.³⁰ As in rural areas, obstacles to blight redemption in cities can include economic constraints; difficulties balancing strategic approaches, such as historic preservation and demolition; environmental

26. *Id.* at 149.

27. See generally Leslie A. Whitener & Tim Parker, *Policy Options for a Changing Rural America*, 5 AMBER WAVES (2007), http://people.oregonstate.edu/~hammerr/Soc475/Policy/Policy_Options_for_a_Changing_Rural_America.pdf; Pruitt & Showman, *supra* note 4. Similarly, "the most significant common denominator among vacant and abandoned properties" is property tax delinquency, and in turn, abandoned properties lower property values and tax revenue, reducing local government resources that could be put toward blight redemption and other issues. Jourdan et al., *supra* note 25, at 148, 156.

28. Pruitt & Showman, *supra* note 4, at 482.

29. Rosser, *supra* note 7, at 33.

30. Patrick Gunton, *Detroit's Vacant Property Dilemma: The Illusory Power of Demolition Statutes in a Post-"Great Recession" World*, 59 WAYNE L. REV. 119, 120 (2013).

hazards, such as asbestos and lead; time-consuming tax foreclosure processes; unaccountable lenders; political considerations; displacement concerns; cloudy property titles; and trouble locating owners.³¹ However, as will be discussed below, other urban constraints—such as “excessive building codes” and land use restrictions³²—are not necessarily among the primary concerns in rural areas. Further, other primary concerns in rural areas—such as population sparseness and the inaccessibility of judicial review—are not necessarily recognized as more difficult or uniquely difficult in the rural context.

“Rurality is typically defined in contrast to urbanicity,” and the most frequently used definitions for “rural” are those issued by federal agencies.³³ The discussion in these sections presumes the U.S. Department of Agriculture’s definition of “rural” as “nonmetropolitan (nonmetro) areas . . . includ[ing] some combination of: 1. Open countryside, 2. Rural towns (places with fewer than 2,500 people), and 3. Urban areas with populations ranging from 2,500 to 49,999 that are not part of larger labor markets.”³⁴ This discussion can illuminate necessary angles to consider in rural blight mitigation and may inform an effective, albeit loose, framework that could be applied to rural areas. In turn, successful rural blight mitigation may help mitigate larger social issues, some of which are mentioned here.

1. Limited Resources and Economic Activity

Rural areas tend to have less economic and social activity, fewer financial resources, and more limited services than urban ones. At the individual and household level, rural residents generally have lower incomes and experience higher rates of poverty than their urban counterparts.³⁵ In fact,

31. Cf. U.S. Dep’t of Housing & Urb. Dev., Dev. Office of Pol’y & Res., *Barriers to the Rehabilitation of Affordable Housing: Volume I—Finding and Analysis* (2001), <https://www.huduser.gov/publications/pdf/brahvol1.pdf>; Creola Johnson, *Fight Blight: Cities Sue to Hold Lenders Responsible for the Rise in Foreclosures and Abandoned Properties*, 2008 UTAH L. REV. 1169, 1171 (2008).

32. Cf. *Barriers to the Rehabilitation of Affordable Housing*, *supra* note 31.

33. *Rural Homelessness*, NAT’L COAL. FOR THE HOMELESS (2007), <http://www.nationalhomeless.org/factsheets/Rural.pdf>.

34. *Overview*, *supra* note 21. Defining what “rural” means can be a challenge, and many definitions differ. See *Planning for Transportation in Rural Areas*, U.S. DEP’T OF TRANSP. FED. HIGHWAY ADMIN. (2012), http://www.fhwa.dot.gov/planning/publications/rural_areas_planning/page03.cfm (“In reality, the concept of ‘rural’ cannot be narrowly defined. In fact, many definitions of rural exist. The way people think of rural largely depends on where they are from and where they live.”) In contrast to the USDA definition, for instance, “[t]he U.S. Census Bureau uses much smaller geographic building blocks to define rural areas as open country and settlements with fewer than 2,500 residents.” *Id.* Distinctions such as these are not critical to the analysis here.

35. Addie Weaver & Christopher Gjesfield, *Barriers to Preventive Services Use for Rural Women in the Southeastern United States*, 38 SOC. WORK RES. 225 (2014); *Rural*

[t]he level of poverty is striking in rural areas—of the 500 poorest counties in America, 459 are rural. Although the numbers of poor are higher in urban areas, the rates of poverty are higher in rural areas. Rural dwellers are significantly more likely to be poor. . . . Although approximately eighty percent of the U.S. population lives in urban areas and only approximately twenty percent live in rural areas, rural areas consistently exhibit higher rates of poverty, and have done so every year since 1959.³⁶

Although the urban/rural poverty divide, persistent since the 1960s, has narrowed in recent years,³⁷ disproportionate child poverty in rural areas “increased to record levels in 2012.”³⁸ The poverty gap exists in all regions of the United States, with the most glaring divide in the South.³⁹

In the public sphere, local governments in rural places and small towns have more limited fiscal and human resources, service delivery, and planning capacity.⁴⁰ Low-density population means a lower tax base, fewer social services, limited infrastructure, a more limited economy, lower incomes, and a reduced ability to galvanize resources to address local problems.⁴¹ Smaller and poorer municipalities are in turn less likely to enact policies related to sustainable development and “are at a distinct

Poverty & Well-Being, U.S. DEP’T OF AGRIC. ECON. RES. SERV. (2015), <http://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/poverty-overview.aspx>.

36. Debra Lyn Bassett, *Poverty and Global Ruralism*, 13 J. GENDER RACE & JUST. 1, 5 (2009). For instance, a 2011 study conducted by the Bureau of Labor Statistics (BLS) of expenditures in urban and rural households concluded that for 2011, urban households received \$15,779 (32 percent) more in yearly income than rural households and spent only 18 percent more. William Hawk, *Expenditures of Urban and Rural Households in 2011*, BUREAU OF LAB. STAT. (2013), <http://www.bls.gov/opub/btn/volume-2/expenditures-of-urban-and-rural-households-in-2011.htm>; Weaver & Gjesfield, *supra* note 35, at 225.

37. *Rural Poverty & Well-Being*, *supra* note 35.

38. *Id.*

39. *Id.* The gap also exists across all racial and ethnic groups, but African Americans, American Indians, and Alaskan Natives experience the highest incidence of poverty. *Id.* Urban/rural disparities persist at the individual and household level in areas of non-monetary resources as well. The BLS study found that members of rural households were less likely to have a college education than members of urban households, at 49 percent and 63 percent, respectively. *Id.* Rural residents are also more likely to be underinsured or uninsured for medical care and are more likely to rely on public sources of income, in part due to rural areas having an older population. Weaver & Gjesfield, *supra* note 35, at 225; *Rural Poverty & Well-Being*, *supra* note 35.

40. Pruitt & Showman, *supra* note 4, at 495; Homsy & Warner, *supra* note 13.

41. Cf. Pruitt & Showman, *supra* note 4; Joanna M. Wagner, *Improving Native American Access to Federal Funding for Economic Development Through Partnerships with Rural Communities*, 32 AM. INDIAN L. REV. 525, 545 (2008).

disadvantage when trying to enact . . . policies due to capacity (staff time, local revenue) and [because] they depend more on citizen leadership."⁴² Meanwhile, federal and state funding and support tend to be directed at urban centers or communities where residents have the capacity to file complex grant applications.⁴³

As to other resources, large non-profits that fill the gaps in public services tend to be located near metropolitan centers.⁴⁴ Rural areas generally lack adequate numbers of attorneys, services for domestic violence victims, support for the homeless, and health care resources.⁴⁵ Private services are also more limited; for instance, "in most rural areas, a large corporate housing industry does not exist."⁴⁶ Services that may be available likely require greater travel burdens to seek them.⁴⁷ Meanwhile, research and studies on issues such as homelessness, crime, and redevelopment have tended to focus on urban issues.⁴⁸

The implications of these limitations may be somewhat bleak for all aspects of rural life, and blight redemption suffers along with other areas. Poverty and low incomes make it more difficult for homeowners or

42. Homsy & Warner, *supra* note 13.

43. Wagner, *supra* note 41, at 549.

44. See Runge & Vachon, *supra* note 24, at 619. Public and private programs serving rural areas or low-income communities do exist. Rural LISC (Local Initiatives Support Corporation), for instance, "provides a wide range of services" to rural areas, "including training, technical assistance, information, and financial support, to help rural community developers address the problems rural communities face." *About Us*, RURAL LISC, http://programs.lisc.org/rural_lisc/about_us/index.php. Federal and state governments have a variety of relevant outreach and development programs. See *Rural Economic Development Resource Director*, OFFICE OF THE COMPTROLLER OF THE CURRENCY, U.S. DEP'T OF TREASURY, <http://www.occ.gov/topics/community-affairs/resource-directories/rural-economic-development/index-rural-economic-development.html>; *New Markets Tax Credit*, IRS, <https://www.irs.gov/pub/irs-utl/atgnmtc.pdf>; *About ARC*, APPALACHIAN REGIONAL COMM'N, <http://www.arc.gov/about/index.asp>; *Free Home Repair in West Virginia*, LESKO.COM, <http://lesko.com/free-home-repair-in-west-virginia.php>. The instant discussion is not intended to suggest that no resources are available in rural communities, but rather, they may be unavailable or difficult to take advantage of in many areas.

45. Runge & Vachon, *supra* note 24, at 619; Hannah Alsgaard, *Rural Incentive Programs for Legal and Medical Professionals: A Comparative Analysis*, 59 S.D. L. REV. 585, 585 (2014).

46. Rosser, *supra* note 7, at 55.

47. Cf. Weaver & Gjesfield, *supra* note 35, at 226.

48. Richard J. First, John C. Rifer & Beverly G. Toomey, *Homelessness in Rural Areas: Causes, Patterns, and Trends*, 39:1 SOC. WORK (1994); Lisa R. Pruitt, *The Forgotten Fifth: Rural Youth and Substance Abuse*, 20 STAN. L. & POL'Y REV. 359 (2009) (discussing persistent association of substance abuse with cities, which leaves rural youth substance abuse programs underfunded and underserved); Ralph A. Weisheit et al., *Rural Crime and Rural Policing*, NAT'L INST. OF JUST. (1994).

occupiers to address buildings falling into disrepair.⁴⁹ Limited public funds inhibit a variety of potential actions, such as planning initiatives; the hiring of officials, such as code enforcement officers; and the ability to enact and enforce blight-related laws, such as nuisance ordinances. Lacking social services can impede blight redemption in a variety of ways. For instance, there may be a perceived need for vulnerable populations to occupy dilapidated buildings due to inadequate housing stock or inadequate support for alternatives, such as homeless shelters.⁵⁰

2. Cultural Norms

Discussions of rural life run the risk of turning to stereotypes or mythology.⁵¹ The “Agrarian Myth” and the “Rural Utopia” ideal, for instance, denote the social phenomenon where people assume that farmers or residents of rural areas “are hard-working, virtuous, simple, and have little money.”⁵² By contrast, the “Rural Dystopia” model denotes assumptions that residents of rural areas are “shiftless, inbred, trashy, drunk, and so forth.”⁵³ In addition to a lack of knowledge, these stereotypes could, in fact, explain in part why suburban and urban Americans seem disinclined to act on issues affecting rural communities.⁵⁴

49. See, e.g., *The Low-Income Housing Tax Credit: Overcoming Barriers to Affordable Housing in Rural America* 1, Rapoza Assocs. (2013), <http://ruralhousingcoalition.org/wp-content/uploads/2013/08/rapozaRuralLihtRpt+CaseStudiesFinal1.pdf> (“Rural communities face significant barriers to clean, decent, and affordable rental housing. Due to lower incomes and higher poverty rates, far too many rural families live in rental housing that is either too expensive or in substandard condition. . . . [R]ural renters are more than twice as likely to live in substandard housing as rural homeowners.”).

50. *Rural Homelessness*, *supra* note 33 (“There are far fewer shelters in rural areas than in urban areas; therefore, people experiencing homelessness are less likely to live on the street or in a shelter and more likely to live in a car or camper, or with relatives in overcrowded or substandard housing. Restricting definitions of homelessness to include only those who are literally homeless, that is, on the streets or in shelters, does not fit well with the rural reality and also may exclude many rural communities from accessing federal dollars to address homelessness.”).

51. See Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159, 168–69 (2006) (discussing rural stereotypes).

52. Axel Aubrun & Joseph Grady, *The Agrarian Myth Revisited* 3, FRAMEWORKS INST. (2003), http://www.frameworksinstitute.org/assets/files/PDF_Rural/agrarian_myth_revisited.pdf; see also *Small Towns*, *supra* note 22 (“Rural communities and small towns are often portrayed in iconic Jeffersonian terms, when the reality is often quite divergent from mainstream notions.”).

53. Aubrun & Grady, *supra* note 52, at 9; Pruitt, *supra* note 51, at 170 (“These stereotypes include the ignorant and simple rube, but also the wholesome, salt-of-the-earth neighbor.”).

54. *Id.*

Nevertheless, social studies appear to exhibit some consistent themes in cultural differences between urban and rural areas. One likely relates to the discussion above on limited resources: a greater likelihood of relying on informal services and dispute resolution mechanisms and a lower likelihood of utilizing formal services at all. In a seminal study of dispute resolution in one California county, Professor Robert Ellickson found that “neighbors appl[ie]d informal norms, rather than formal legal rules, to resolve most of the issues that ar[o]se among them.”⁵⁵ For instance, in resolving disputes over cattle trespass, despite the existence of a “complex body of law” involving strict liability in tort that could formally apply, Ellickson found that “perhaps counterintuitively . . . legal rules hardly ever influence[d] the settlement of cattle-trespass disputes.”⁵⁶ Rather, Ellickson concluded

[T]respass conflicts are generally resolved not in “the shadow of the law” but, rather, beyond that shadow. Most rural residents are consciously committed to an overarching norm of cooperation among neighbors. . . . Allegiance to this norm seems wholly independent of formal legal entitlements. . . . Cattlemen typically couch their justifications for the norm in moral terms. . . . [D]eviants who violate these norms are informally controlled. . . . The neighborly response to an isolated infraction [wa]s an exchange of civilities. A trespass victim should notify the animal owner that the trespass has occurred and assist the owner in retrieving the stray stock. . . . A telephone report is usually couched not as a complaint but rather as a service to the animal owner. . . . Upon receiving a telephone report, a cattleman who is a good neighbor will quickly retrieve the animals . . . apologize for the occurrence, and thank the caller. . . . The norm of reciprocal restraint that underlies the “live-and-let-live” philosophy also calls for ranchers to swallow the costs of boarding another person’s animal, even for months at a time. . . . The live-and-let-live norm also suggests that neighbors should put up with minor imbalances in their aggregate accounts.⁵⁷

In sum, Ellickson concluded that sociocultural norms of “neighborliness,” a live-and-let-live philosophy, and reciprocal need governed cattle ranchers’ resolution of disputes rather than formal law; he similarly noted that those who “deviated” from these norms were dealt with first through “self-help retaliation” and only second through “reports to county authorities.”⁵⁸ More generally, Lisa Pruitt opines there is an “ethos of independence and self-reliance associated with rural places [that is] reflected in residents’ reluctance to seek government assistance.”⁵⁹ Commentators

55. ROBERT C. ELICKSON, *ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES* 1 (1991).

56. *Id.* at 40.

57. *Id.* at 40–54.

58. *Id.* at 54.

59. Pruitt & Showman, *supra* note 4, at 489.

have also posited that psychological elements of fatalism may also lead residents to see little purpose to engaging with services.⁶⁰

Attachment to private property rights and skepticism of regulation are additional norms commonly associated with rural areas.⁶¹ Pruitt notes that “[s]ome commentators have asserted that rural landowners are particularly protective of private property rights and suspicious of any legal activities that might curtail them,” which has sometimes contributed to “the law respect[ing] the private property rights of rural landowners more than urban ones.”⁶² The early 2016 forcible occupation of a national wildlife refuge in Oregon perhaps illustrates some of these cultural threads, showing a combination of attachment to property rights, resort to informal dispute resolution, and outright animosity toward government actions: a group of cattle ranchers deemed by some to be a militia used the occupation to protest “the federal government . . . taking and using the land and resources” that the group felt the ranching community had a right to.⁶³

Limitations on political accountability in some rural areas may also impede local development initiatives. In a longitudinal study, Cynthia Duncan observed two rural communities, one in Appalachia and the other in the Mississippi Delta, that she characterized as “feudal kingdoms” where persistent poverty was fueled by a two-class society involving concentrated control over local political life.⁶⁴ She concluded that “many public programs were effectively commandeered by local politicians and made part of the patronage system because there [wa]s little accountability” in those communities.⁶⁵ Generally, rural courts, a potential avenue for political oversight, “rarely become agents of socio-political change” due to tensions associated with pursuing adversarial proceedings in interconnected

60. Weaver & Gjesfield, *supra* note 35, at 226; Charles Gessert et al., *Rural Definition of Health: A Systematic Literature Review*, 15 BMC PUB. HEALTH 378 (2015) (“Some research has suggested that [decisions to utilize medical services] may be more complex for rural residents, who often face limited access to health services and commonly value and believe in self-reliance, independence, and informal systems of care.”). *Id.*

61. See, e.g., Anna J. Sadler, *Rural Character in the Hilltowns: Understanding Attitudes About Planning in the Context of Attachment to Place* 72 (Feb. 2014) (unpublished master’s thesis, University of Massachusetts), <http://scholarworks.umass.edu/theses/218>.

62. Pruitt, *supra* note 51, at 191.

63. Ashley Fantz, Joe Sutton & Holly Yan, *Armed Group’s Leader in Federal Building: “We Will Be Here As Long As It Takes,”* CNN (Jan. 4, 2016), <http://www.cnn.com/2016/01/03/us/oregon-wildlife-refuge-protest/>.

64. Pruitt & Showman, *supra* note 4, at 528 (discussing Duncan’s work).

65. *Id.*

communities.⁶⁶ Today, ownership of rural property by African Americans is limited in large part due to race-related dispossession stemming from local abuses.⁶⁷

But despite a potential lack of political oversight, rural life can be characterized by maximum social accountability—what Lisa Pruitt and Bradley Showman call being “by yourself, but known to all.”⁶⁸ Due to the smaller populations in rural areas, people may be more likely to know one another.⁶⁹ As mentioned above, this interconnectedness can shape how disputes are handled. For example, rural lawyers “are expected to resolve disputes, while minimizing conflict, and simultaneously maintaining collegial ties.”⁷⁰ Thus, “few local attorneys in small rural communities are inclined to forcefully adjudicate controversial cases for fear of community antagonism.”⁷¹ For public officials, making an arrest or issuing a citation may be uncomfortable or present a conflict of interest because of family, friendship, or business ties to the other party.⁷² This tension means that people may be reluctant to “cause trouble” by challenging the status quo or causing interpersonal tension by taking on development issues.

All of these cultural realities may impede rural efforts to address blight. Skepticism toward government, protectiveness of property, and a general disengagement with services can translate to lower public support for formal processes geared toward blight mitigation. Community interconnectedness and the pressure to be “neighborly” may also translate into avoidance of adversarial processes related to blight mitigation. Further, if power is inordinately concentrated in a local constituent that does not

66. Hannah Alsgaard, *supra* note 45, at 590 (quoting Edmondson); see also Lisa R. Pruitt, *Spatial Inequality As Constitutional Infirmary: Equal Protection, Child Poverty and Place*, 71 MONT. L. REV. 1, 81 (2010) (quoting Helen Hershkoff: “Judicial review leverages the political strength of groups that lack strong alliances or electoral power, moving their concerns onto a legislative agenda and creating political resources for future use”); Runge & Vachon, *supra* note 24, at 619 (discussing limited access to justice in rural areas, concomitant limitations on access to public benefits, property and housing protections, and domestic violence protections, and how “[r]esearch has indicated that in situations with a known lack of access to justice, those in positions of power use the lack of a rule of law to exploit vulnerable populations”).

67. Thomas W. Mitchell, *Destabilizing the Normalization of Rural Black Land Loss: A Critical Role for Legal Empiricism*, 2005 WIS. L. REV. 557, 559 (2005).

68. Pruitt & Showman, *supra* note 4, at 489.

69. *Id.* at 591 n.112.

70. *Id.*

71. Hannah Alsgaard, *supra* note 45, at 590.

72. See Pruitt & Showman, *supra* note 4, at 489 (rural places are characterized by lack of anonymity; “[t]he fact that legal actors (e.g., law enforcement, prosecutors, and judicial officials) are also neighbors, acquaintances, and even friends or family may help explain rural residents’ reluctance to engage the state”).

wish to funnel resources into blight mitigation, there may be little means of reasonably accessible recourse for the disenfranchised.

3. Limited Planning and Legal Frameworks

In part due to the lack of resources discussed above, planning policies and related laws in rural communities are “often flawed or nonexistent.”⁷³ Many rural communities lack any consensus, guidance, or authority for managing development and addressing problems. While it is generally understood as a best practice for communities to have “development plans that systematically examine [communities’] strengths, weaknesses, opportunities, and threats,” only half of rural communities have them.⁷⁴ In West Virginia, a comprehensive plan must be adopted before a zoning ordinance may be enforceable, but not all communities have an up-to-date plan.⁷⁵ Communities may lack building codes and ordinances, which means that there is no applicable law to enforce when dealing with individual buildings.⁷⁶ These gaps can mean that even if a community gains public support for remedying problem properties, the policy and legal tools necessary to take action may not be available. Further, a “propensity to land speculation and the inability of land use planners to exert control over land markets [also] prevent planners from using zoning and infrastructure planning in ways that . . . effectively meet the needs of the population as a whole.”⁷⁷

The current pandemic of urban sprawl—poorly organized, land-consumptive development at the edges of cities and towns, “designed without regard to surroundings”—illustrates the historical lack of land use planning in population-sparse areas of the United States.⁷⁸

[M]any municipalities simply lack the resources to effectively plan for and manage growth. The creation of a comprehensive plan or the modernization of zoning and subdivision ordinances is an expensive undertaking in terms of time, money, and political capital. Lack of foresight, fiscal resources, and understanding of regional economic forces leads many communities to realize, too late, that they are unprepared to deal with . . . growth.⁷⁹

73. Wagner, *supra* note 41, at 546; see also *Planning for Transportation in Rural Areas*, *supra* note 34 (“[I]n most rural areas there is very little land use planning with which to coordinate.”).

74. Wagner, *supra* note 41, at 546.

75. *The Comprehensive Plan*, Bedard Consulting, http://www.bedardconsulting.com/Comp-Plan-Info-Brochure_1_.pdf.

76. Rosser, *supra* note 7, at 38.

77. NINA GLASGOW & E. HELEN BERRY, *RURAL AGING IN THE 21ST CENTURY* 225 (2013).

78. Joel P. Dennison, *New Tricks for an Old Dog: The Changing Role of the Comprehensive Plan Under Pennsylvania’s “Growing Smarter” Land Use Reforms*, 105 DICK. L. REV. 385, 389 (2001).

79. *Id.* at 392.

Similarly, many communities' planning and zoning frameworks are simply ill-equipped to address the legally complex phenomenon of dramatically prevalent problem properties, which may implicate legal doctrines ranging from nuisance law to eminent domain.⁸⁰

Unincorporated communities also face unique challenges. As of the early 2000s, 30 percent to 40 percent of communities in the United States were unincorporated.⁸¹ These communities typically lack authority to engage in governance activities at all.⁸² As a result, they are poorly equipped to address local problems and have trouble developing infrastructure.⁸³ These communities experience deeper patterns of inequity and are often subject to the interests of more powerful constituents within a shared county.⁸⁴ Agribusiness and industrial forces may exert pressure to keep the communities unincorporated, due to the large benefits the businesses stand to make from lack of regulation and oversight.⁸⁵

In sum, rural communities' weak history and culture of local development planning has left many of them paralyzed or lagging in their capacity to address blight. A variety of planning and legal frameworks is necessary to effectively counteract trends of vacant, abandoned, and dilapidated properties. Communities have limited legal recourse for addressing blight through formal avenues without foundational measures such as comprehensive plans; zoning ordinances; other simple ordinances, such as vacant property registries or nuisance rules; and building codes.

4. Variability of Rural Issues

"A familiar adage in rural sociology holds, 'if you've seen one rural place, you've seen one rural place.'"⁸⁶ The issues facing rural communities are highly variable, and "rural settings are not homogenous in

80. Cf. *id.* ("[M]unicipal planning, zoning, subdivision and land development ordinances . . . are simply inadequate to manage the tremendous growth pressures facing many communities."); Tisher, *supra* note 3, at 175 (discussing the subprime mortgage crisis, population shifts, and employment shifts over past several decades as contributors to widespread blight and noting that "[m]unicipalities use vacant building registries, hazard abatement programs, public nuisance law, condemnation procedures, land banks, and other local ordinances in their attempts to remedy the vacant and abandoned building problem").

81. Darryl T. Cohen, *Population Distribution Inside and Outside Incorporated Places: 2000*, U.S. CENSUS BUREAU, <https://www.census.gov/population/www/documentation/twps0082/twps0082.pdf>.

82. Tony LoPresti, *Reclaiming the Authentic Future: The Role of Redevelopment in Unincorporated California*, 44 URB. LAW. 135, 143 (2012).

83. *Id.*

84. *Id.*

85. *Id.*

86. Pruitt & Showman, *supra* note 4, at 475.

terms of culture, economic hardship, or sense of history/community.”⁸⁷ Rather, “[t]he rural population in the United States is . . . heterogeneous, encompassing differences of nearly every dimension—among them, different occupations, different incomes, different races, and different problems.”⁸⁸ In addition, “geography plays a crucial but neglected role in poverty, and particularly in rural poverty,”⁸⁹ and poverty becomes more acute and persistent in more remote areas.⁹⁰ Hazardous industrial and extractive land uses frequently go unremediated, and rural residents face greater public health risks.⁹¹ In short, landscapes, housing, industrial activity, labor forces, demographics, and social norms all shape the unique nature of a particular rural place.

Housing vulnerability is a significant example of a complex, variable, and difficult issue in rural areas. Low-income populations experience more vulnerability to cloudy titles and informal homeownership, meaning that they can more easily have their property claimed by another party, and are less likely to be able to manage their property, e.g., by securing a loan for repairs.⁹² For renters, there is often an imbalance between the supply and demand of affordable rural housing.⁹³ Marginalized farmworkers who may be illegal immigrants are expected to remain inconspicuous in hazardous housing conditions.⁹⁴ Mobile homes, a popular housing option for many rural residents, feed cycles of transience and financial insecurity and reduce investment in local communities.⁹⁵

The varied nature and profound complexity of rural problems impedes the development of a standardized approach to rural blight. Although commentators acknowledge that no “silver bullet” exists to address blight, it seems particularly important to note that no one or two tools will be the key to rural blight redemption. It is easy to infer that many law and policy initiatives that seem desirable or effective in writing will not be available or functional in practice for many rural communities. As discussed in more depth below, rural variability speaks to the need for a framework that facilitates each locale’s creation of an approach based on its particular circumstances.

87. Charles Gessert et al., *Rural Definition of Health: A Systematic Literature Review*, 15 BMC PUB. HEALTH 378 (2015).

88. Bassett, *Distancing Rural Poverty*, *supra* note 6, at 5–6.

89. Bassett, *Poverty & Global Ruralism*, *supra* note 36, at 3.

90. Bassett, *Distancing Rural Poverty*, *supra* note 6, at 10.

91. Pruitt & Showman, *supra* note 4, at 500.

92. Heather K. Way, *Informal Homeownership in the United States and the Law*, 29 ST. LOUIS U. PUB. L. REV. 113, 116 (2009).

93. Katherine MacTavish et al., *Housing Vulnerability Among Rural Trailer-Park Households*, 13 GEO. J. ON POVERTY L. & POL’Y 95, 98 (2006).

94. Pruitt & Showman, *supra* note 4, at 487.

95. MacTavish et al., *supra* note 93, at 96.

B. Common Legal Tools and Potential (In)Effectiveness in Rural Areas

The most common, straightforward tools used in blight mitigation may be housing code citations and tax foreclosure.⁹⁶ However, even these pose challenges for both rural and urban communities, and rural communities in particular. First, “[n]either method was designed specifically to address abandonment.”⁹⁷ But further, “limited resources and capacities of the building departments which administer the codes are only going to be more marked in rural areas with less of a tax base . . . [and] building codes are not currently fully enforced in rural areas.”⁹⁸ As to tax foreclosure, in a state such as West Virginia, the foreclosure process can be extremely lengthy, complicated, and financially burdensome.⁹⁹

Several more ambitious tools for addressing blight have been the central focus of recent discussion. Ample attention has been devoted to using land banks, redevelopment authorities, and receivership.¹⁰⁰ However, all of these approaches require resources and coordination that may be beyond many rural communities, in light of the characteristics discussed above.

As to land banks specifically, Dr. Dawn Jourdan and co-authors explain their rise to popularity:

Over the past thirty years, land banks have emerged as powerful tools for converting vacant and abandoned properties into assets for community revitalization. With rare exceptions, a unit of local government must be given the authority to engage in land banking activities pursuant to state enabling legislation. Historically, large municipalities suffering the results of inner city decline have called upon their state legislatures to expand their powers to amass land for the purpose of urban redevelopment. . . . The Missouri legislature granted this power to St. Louis in 1971. Other state legislatures followed suit: Ohio (1976), Kentucky (1989), Georgia (1991), Michigan (2002), and Texas (2007), among others.¹⁰¹

But Jourdan and colleagues question the applicability of land banks to the rural context. They note that “[n]one of these land bank laws seeks to grapple with the problems associated with vacant properties in rural areas and the related affordable housing crisis.”¹⁰² They argue that

96. Matthew J. Samsa, *Reclaiming Abandoned Properties: Using Public Nuisance Suits and Land Banks to Pursue Economic Redevelopment*, 56 CLEV. ST. L. REV. 189, 197 (2008).

97. *Id.* at 197.

98. Rosser, *supra* note 7, at 55.

99. See W. VA. CODE § 11A-1-1 et seq.

100. Thomas J. Fitzpatrick IV, *Ohio's Land Bank Legislation: Modernizing an Aged Model*, 19:2 J. AFFORDABLE HOUSING & CMTY. DEV. L. 127, 136 (2010).

101. Jourdan, *supra* note 25, at 151. Maryland, New York, and West Virginia also have land bank statutes.

102. *Id.*

[w]hile previous legislative efforts vest [the power to land bank] in municipalities and counties, a local government in rural areas may not have the human or fiscal resources necessary to accomplish the relatively sophisticated land acquisition and distribution activities involved in land banking. . . . [T]he real challenge lies with the questions of administration. Land banks are typically sophisticated entities that are independent of local governments with their own budgets and staff. With these resources, the land banks seek to acquire, maintain, and transfer banked properties to entities that will construct affordable housing opportunities or build these opportunities themselves. Such expense does not make sense for rural governments with few vacant properties.¹⁰³

Based on a Texas case study, they conclude that “it is clear . . . most rural governments alone lack the necessary vacancy rates to justify a local land bank.”¹⁰⁴

Other concerns might counsel against the use of a land bank in a rural context. First, acquiring and managing properties entails facing liability or cleanup duties.¹⁰⁵ Further, land banks rely on a market-based approach to redevelopment, but in many rural communities, there may not be a local market for the properties, given that their condition already reflects a market failure.¹⁰⁶

The Center for Community Progress (CCP) highlights the Land Bank Authority of Marquette County, Michigan, as “break[ing] the stereotype that land banks work only in urban areas with large-scale vacancy and abandonment.”¹⁰⁷ The rural City of Marquette within Marquette County has a population of approximately 20,000.¹⁰⁸ The Marquette County land bank “incurs very little in annual maintenance costs” and keeps an average of five properties in its inventory.¹⁰⁹ CCP points to it as a success story illustrating how a land bank can be used to meet rural needs, attributing its success to a small staff and inventory, reliance on outside support from other departments and agencies to perform some needed work, use of grants and donations, a “fiscally responsible model,” and a “selective and careful approach” involving acquiring only “properties for which there are disposition plans in place or current financial capacity to hold and maintain the property.”¹¹⁰ However, CCP acknowledges that this land bank must play a “tailored role” and that it is “just another strategic tool.”¹¹¹ CCP continues, “[j]ust like code enforcement, tax enforcement,

103. *Id.* at 157.

104. *Id.* at 158.

105. *Cf.* Fitzpatrick, *supra* note 100, at 127, 133.

106. *Cf. id.* at 133.

107. *Take It to the Bank*, *supra* note 7, at 58.

108. *Id.* at 59.

109. *Id.*

110. *Id.* at 58–59.

111. *Id.* at 58.

and effective data collection, the land bank is simply one more tool to combat vacancy and abandonment that can be adapted and scaled to meet the community's unique needs."¹¹²

This commentary on the role of land banks illustrates the central tension in the dialogue on blight in an urban versus a rural context. Despite successes such as Marquette County, tools such as land banks seem to have been created in an urban context, then test driven, and arguably largely reshaped, in rural communities. A land bank's effectiveness depends upon how it is used and on local capacities. If a community lacks government resources to devote to a land bank, nonprofit partners to help facilitate property remediation, a comprehensive plan, and a building code—and the discussion above illustrates that this would likely be true for many rural communities—creation of a land bank may simply be a misallocation of resources at that stage of development.

Land banks are indeed one among many tools, but the frequent, extended discussions of tools such as land banks may also distract from the different, more fundamental needs of many rural communities. Although land banks are a viable option, as illustrated above, it would seem that policymakers and stakeholders with a focus on rural areas should not turn to these tools first, despite their common appearance in discussions of blight. The same principles apply to considerations of receivership or redevelopment authorities, which involve similar requirements. Since complex and sophisticated approaches may be inappropriate for many rural communities, more discussion should focus on more accessible measures and first steps.

II. West Virginia Legal Education to Address Abandoned and Neglected Properties (WV LEAP)

A. Background of WV LEAP¹¹³

West Virginia's and the WVU Land Use Clinic's experiences with blight are well-positioned to help inform rural blight redemption law, policy, and advocacy elsewhere in the country. West Virginia is a predominantly rural state,¹¹⁴ West Virginia University College of Law is the sole law school in West Virginia, and the Land Use Clinic at WVU College of Law is one of very few legal clinics in the country focused on land use planning and sustainable development. Through the Clinic, among other initiatives, law students work under attorneys and planners on

112. *Id.* at 61.

113. Much of the discussion in this section is drawn from the author's direct experience with the program and employment as a fellow from 2014–2016 at the WVU Land Use Clinic.

114. U.S. Dep't of Agric., *West Virginia: 3 Rural Definitions Based on Census Places*, http://www.ers.usda.gov/datafiles/Rural_Definitions/StateLevel_Maps/wv.pdf

planning matters, ranging from working with local governments on comprehensive plans and zoning ordinances, to producing law and policy resources for use across the state.

Blight is a significant problem in West Virginia. As many as one in sixteen properties in the state are estimated to be vacant or abandoned.¹¹⁵ In 2014, through a grant from the Benedum Foundation, the WVU Land Use Clinic partnered with the West Virginia Northern Brownfields Assistance Center (NBAC) to establish the West Virginia Legal Education to Address Abandoned and Neglected Properties (WV LEAP) program.¹¹⁶ The program's objective is to address the dearth of legal resources and guidance for municipal and county governments in West Virginia for dealing with abandoned, dilapidated, and unsafe buildings.¹¹⁷ The WVU Land Use Clinic designed the program based on its land use planning work with communities around the state and the trend that unsafe and neglected structures have been a pressing and difficult priority for most communities.¹¹⁸ WV LEAP offers a rare instance of systematic study of rural blight by attorneys and planners, whose efforts can inform the broader discourse on rural blight.

The focus of the first phase of WV LEAP was to conduct interviews with stakeholders engaged with the process of addressing neglected properties.¹¹⁹ Clinic attorneys facilitated these "listening sessions" with selected communities around the state in order to identify the greatest legal challenges communities experienced while attempting to address blight.¹²⁰ Communities were selected based on their participation in NBAC's "Brownfields, Abandoned, and Dilapidated (BAD) Buildings" program, which assists communities to inventory, prioritize, and engage in targeted redevelopment of neglected buildings.¹²¹ Interviews were conducted with eight groups during 2014 and 2015.¹²² Participants in each group included, at a minimum, the local mayor and building code inspector.¹²³ Most groups also included the city manager, city attorney, at least

115. *From Liability to Viability: A Legal Toolkit to Address Neglected Properties in West Virginia*, LAND USE & SUSTAINABLE DEV. LAW CLINIC, <http://wvleap.wvu.edu/> (hereinafter *Toolkit*).

116. *Id.* at *Preface*, <http://wvleap.wvu.edu/preface>.

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *West Virginia BAD Buildings Program*, N. BROWNFIELDS ASSISTANCE CTR., <http://wvbadbuildings.org>.

122. *Toolkit*, *supra* note 115, at App. B: *Findings from Regional Listening Sessions*, <http://wvleap.wvu.edu/files/d/04e1bc7c-4ee4-4db2-ad41-56eac971a9c5/appendixb-2015-11-30findingsfromlisteningessions.pdf> (hereinafter *Findings from Regional Listening Sessions*).

123. Notes on file with WVU Land Use Clinic.

one councilperson, concerned citizens, local bankers, and local developers.¹²⁴ The interview questions aimed to elicit the state of the community's process for approaching blighted properties and the legal obstacles that arose throughout that process.¹²⁵ Participants were also asked to prioritize the obstacles, from the greatest challenge to the least concerning.¹²⁶

B. Listening Session Findings: Struggles Communities Faced

The findings that emerged through WV LEAP listening sessions included the following:

- As to problems associated with neglected properties, drug activity, and methamphetamine labs in particular, were considered a substantial issue.¹²⁷ Other criminal activities were also of concern as well as public safety in general.¹²⁸
- Limited resources and a lack of funding were universally perceived as obstacles to addressing blight. One code enforcement officer reported that he would "back off" when the time came to follow through on demolition threats because he did not have the resources to do so.¹²⁹ However, Clinic staff emphasized to participants that WV LEAP was focused on legal obstacles and tools as a separate issue from financing.¹³⁰
- Communities' systems for addressing neglected properties often took an ad hoc, complaint-based approach, which was perceived as not achieving a systematic impact on blight.¹³¹
- Absentee landowners were reported to be a significant obstacle. They were perceived as being less knowledgeable of buildings falling into disrepair and less accountable in the local community. Respondents believed that substantial time and resources were devoted to figuring out who landowners were and finding them—with no guarantee of results due to the lack of enforcement tools available for out-of-state owners.¹³²
- A lack of legal authority or relevant ordinances, the time-consuming nature of legal processes (such as due process requirements in code

124. *Id.*

125. *Id.*

126. *Id.*

127. *Findings from Regional Listening Sessions*, *supra* note 122.

128. *Id.*

129. Notes on file with WVU Land Use Clinic.

130. *Findings from Regional Listening Sessions*, *supra* note 122.

131. Notes on file with WVU Land Use Clinic.

132. *Id.*

enforcement), and the futility of using the court system were perceived as obstacles to taking effective action.¹³³

- Some landlords were seen as “slumlords,” taking advantage of lax enforcement of code standards or having single-family housing house multiple families.¹³⁴ In turn, officials did not want to condemn those properties because the renters would then have no place to live due to housing shortages.¹³⁵
- Tax delinquency was perceived as fueling a vicious cycle: neglected properties had delinquent taxes and lowered neighboring property values, and the impacts on local government budgets made local governments less able to address the properties. The three-year tax lien foreclosure process was reported to result in neglect.¹³⁶
- Mortgage delinquency and out-of-state banks were problematic; sometimes ownership between the bank and the borrower was unclear, and some banks either would not repossess particular properties or not maintain them once they did.¹³⁷
- Complex property titles and determinations of ownership were complicated further by “property that has passed down automatically from one generation to the next without a will (or through wills that give the property to ‘all of the children equally’),” giving ownership interests to multiple—sometimes hundreds—of heirs.¹³⁸
- Where local governments were able to acquire neglected properties, there was concern about returning the property to productive use economically; for instance, a municipality that demolished an abandoned structure could spend tens of thousands of dollars on the process and end up burdened with an empty lot of minimal value.¹³⁹ Respondents were similarly concerned about limited incentives for developers to rehabilitate properties due to limitations on returns

133. *Findings from Regional Listening Sessions*, *supra* note 122. The precise parameters of what it meant to respondents to “use the court system” are not entirely clear. However, listening session notes indicate that frustrations with the courts’ role were diverse. Specifically, respondents were frustrated with perceived excessive due process rights and multiple appeal opportunities for alleged code violators, poor understanding by the courts of the importance of blight, and the inefficacy of enforcing liens. See Notes on file with WVU Land Use Clinic.

134. *Findings from Regional Listening Sessions*, *supra* note 122.

135. Notes on file with WVU Land Use Clinic.

136. *Id.*

137. *Id.*

138. *Id.* Toolkit, *supra* note 115, at *Heirs Property*, <http://wvleap.wvu.edu/additional-tools/highlight-heirs-property>.

139. Notes on file with WVU Land Use Clinic.

on investments and limited local economies.¹⁴⁰ Liens were perceived as an ineffective way to recoup costs due to competition with other liens.¹⁴¹

- Communities were interested in preserving historic properties, but preservation processes and coordination with specialized committees added complications to legal processes.¹⁴² Old housing stock that was built prior to the adoption of any applicable codes or ordinances was considered a problem.¹⁴³
- Properties with fire damage and asbestos were perceived as more expensive and legally complex to address.¹⁴⁴ Respondents were generally concerned about a lack of clarity in the law or a lack of informational resources.¹⁴⁵
- Although it was not a main priority, some respondents were concerned about uncooperative landowners and landowners' lack of pride or personal investment in their properties.¹⁴⁶
- Racial discrimination, elderly residents with fixed incomes or who resided in nursing homes and had unknown caretakers for their properties, and complications with property titles were perceived as obstacles.¹⁴⁷
- Property owners' emotional ties to structures, limited financial resources, and local officials' concerns about community relations were also issues.¹⁴⁸ Some code enforcement officials were hesitant to impose citations on those in difficult circumstances because properties were often in disrepair due to landowners' limited incomes in the first place, and landowners would not be able to pay fines anyway.¹⁴⁹ Some code officials did not approach nuisance abatement in a standardized way, but rather worked with individual property owners (if cooperative) based on their needs.¹⁵⁰ Some considered this to be successful, while others were concerned about selective enforcement.¹⁵¹

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.*

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.*

151. *Id.*

The WV LEAP listening session findings reflect the issues discussed in Part I.A. Economic constraints, strategic and political considerations, environmental hazards and regulatory requirements, cloudy titles, and absentee owners exemplify challenges that exist across regions. However, the findings show that communities' minimal history of development planning and lack of legal options, community interconnectedness (such as code officials' concern for some community members), housing shortages, and limited local economies were also perceived as hampering their ability to address blight. These latter issues are arguably characteristic of the rural context and warrant more attention as such. Further, it should be recognized that, while economic constraints exist in both urban and rural communities, they are likely more prohibitive in rural areas due to higher rates of poverty and more limited local government capacities.

These obstacles also highlight the powerful effects state and federal legislation can have on this highly localized issue. West Virginia's approach to tax lien foreclosures,¹⁵² federal requirements for asbestos mitigation,¹⁵³ the lack of legal tools available for addressing out-of-state property owners, and a lack of guidance and informational resources all were perceived as impeding blight redemption. While formulation of a framework for addressing rural blight at the local level should be useful, legislative change and policymakers' recognition of both urban and rural issues are also necessary to address blight more effectively.

Many West Virginia communities shared success stories of blight mitigation efforts as well. The next section turns to approaches that proved more effective despite legal and social obstacles, and which informed the Clinic's development of a resource for communities.

152. The West Virginia tax lien foreclosure process can take up to three years, may leave properties to fall into further disrepair than they were at the outset, and is often taken advantage of by out-of-state speculators that do not necessarily return properties to productive use. See *Toolkit*, *supra* note 115, at App. K: *Tax Lien Sale*, <http://wvleap.wvu.edu/files/d/5c5a36cc-2a6e-4808-a694-d06f6842e511/appendix-k-tax-lien-sale.pdf>; *id.* at *Tax Sale*, <http://wvleap.wvu.edu/additional-tools/tax-sale>.

153. Asbestos mitigation can be expensive and complex and implicates federal, state, and local regulations. See 40 C.F.R. § 61.145 (requiring notification to state agency of demolition or rehabilitation of asbestos-containing structures and adhering to standards for manufacturing and fabricating); 29 C.F.R. § 1910.1001 (safety standards for workers working with asbestos); 29 C.F.R. § 1926.1101 (construction standards for work involving asbestos); *E.g.*, 10 N.Y. COMP. CODES R & REGS. 73 (New York State Department of Health regulations for training of workers in asbestos abatement industry); WASH. ADMIN. CODE § 296-65-010 (Washington requirements for asbestos worker certification); 12 TEX. ADMIN. CODE § 1954.001 (Texas requirements for asbestos health protection).

III. WV LEAP Research Findings and Toolkit: A Roadmap for an Effective Approach

The WV LEAP listening sessions informed the production of a resource for West Virginia communities, *From Liability to Viability: A Legal Toolkit to Address Neglected Properties in West Virginia*.¹⁵⁴ The creation of the Toolkit additionally involved intensive consultation with experts and stakeholders around West Virginia. Through interviews and other communications, Clinic staff elicited respondents' experiences and opinions on both successful and unsuccessful legal and non-legal approaches to dealing with blight in their communities or statewide. This information gathering allowed the Clinic to compare and contrast the obstacles people faced with approaches that proved effective. Each tool includes a list of advantages and disadvantages, which sometimes highlight rural circumstances. This section discusses the Toolkit and how it reflects the Clinic's conclusions as to what proved effective or ill-suited to West Virginia's needs. Part IV of this article discusses how these successes can inform a more generalized approach to rural blight redemption.

A. Laying the Foundation

Part I of the Toolkit, "Laying the Foundation," includes "foundational strategies" needed to tackle dilapidated properties effectively.¹⁵⁵ The first two tools are "Collaborating with Key Players" and the creation of comprehensive plans.¹⁵⁶ Additional sections in Part I discuss the processes of identifying properties of concern and prioritizing how to address them.¹⁵⁷ These approaches involve local residents in creating a vision for the direction of the community and taking the first steps to pursue the vision.

Part I is based on the principle demonstrated in successful communities that "[a]ddressing neglected properties is a long-term process that benefits from planning and public buy-in."¹⁵⁸ Having an energized mass of people invested in the community's future can make a significant difference in the effectiveness of blight redemption. For instance, the Toolkit highlights the West Virginia towns of Charles Town and Ranson, which had a blighted corridor running through their adjacent downtowns.¹⁵⁹ Town officials took steps to engage "property owners, local developers, and the broader community in a process to create a reuse vision

154. *Toolkit*, *supra* note 115.

155. *Id.* at *Laying the Foundation*, <http://wvleap.wvu.edu/laying-the-foundation>.

156. *Id.*

157. *Id.*

158. *Id.* at *Comprehensive Plan*, <http://wvleap.wvu.edu/laying-the-foundation/comprehensive-plan>.

159. *Id.* at *Collaborating with Key Players*, <http://wvleap.wvu.edu/laying-the-foundation/collaborating-with-key-players>.

for this corridor, to educate stakeholders on opportunities, and to prime the market for reuse."¹⁶⁰ As a result of this aggressive community engagement, "small lot property owners, an inexperienced local government, and reluctant investors who had given up on this downtown corridor came together to create a reuse vision that is now being implemented."¹⁶¹ Communities without a minimal level of citizen engagement did not appear to be as successful in counteracting blight.¹⁶²

B. Fundamental Tools and Overarching Themes

Part II of the Toolkit includes eleven "Fundamental Tools" for preventing properties from falling into disrepair and addressing problems once disrepair has already take place.¹⁶³ While some of the tools are unique to West Virginia, such as liens on insurance proceeds for debris removal after fire,¹⁶⁴ others are more universally accessible and reflect the reality that many rural communities and small towns need to start from scratch in establishing a legal framework to address blight. Thus, the basic legal tools that could be beneficial to diverse rural communities include adoption of a building code, registration systems for vacant and uninhabitable properties, on-site citations for code violations, liens for demolitions and repairs, and injunctive relief through a nuisance code.¹⁶⁵ On a broader level, these tools are the simple approaches of zoning, crafting basic ordinances, and limited litigation.

The endorsement of these tools reflects a philosophy that contrasts with other discussions of blight redemption, where sophisticated systems such as land banks or aggressive tools such as eminent domain are used to address blight. Rather, these tools highlight the conclusion that communities that engage in basic planning and a combination of relatively mild preventative and remedial tactics, such as passing ordinances based on local needs, are better able to chip away at local blight. These tools are particularly desirable for rural communities because, unlike a tool such as a land bank, they are relatively inexpensive and resource-light; can create modest but much-needed revenue streams;¹⁶⁶ can help inhibit the vicious

160. *Id.*

161. *Id.*

162. For example, in one town where community officials felt paralyzed in their efforts to counteract blight, they attributed their difficulties to an apathetic public and conflicts among interest groups. See Notes on file with WVU Land Use Clinic.

163. *Toolkit*, *supra* note 115, at *Fundamental Tools*, <http://wvleap.wvu.edu/fundamental-tools>.

164. *Id.* at *Liens for Debris Removal After Fire*, <http://wvleap.wvu.edu/fundamental-tools/liens-for-debris-removal-after-fire>.

165. *Id.* at *Fundamental Tools*.

166. Many of the Toolkit's Fundamental Tools involve recouping or offsetting the costs of addressing problem properties or focusing on increasing property values and related taxes in the long run. Adoption of a building code can create a

cycle of building decay, addressing immediate needs while also attempting to be preventative through monitoring and modest punitive measures; and are not particularly politically controversial, unlike an approach such as eminent domain.

Of particular interest to this discussion of rural social issues, non-legal tools emerged as of almost equal importance to legal tools in this context. "Public Pressure to Address Neglected Properties,"¹⁶⁷ "Locating the Property Owner,"¹⁶⁸ "Partnerships with Financial Institutions,"¹⁶⁹ and "Negotiating with Stakeholders"¹⁷⁰ were considered fundamentally important for several reasons. Significantly, these non-legal approaches do not require substantial financial resources at the outset. But further, they take advantage of the nature of some of the characteristics of rural life. Although rural communities suffer from more limited resources than urban communities, they also have a heightened sense of accountability, a greater ease of communication, and the shared hurt of local problems and benefit from local successes.

revenue stream if local governments require building permits for new construction. *Toolkit*, *supra* note 115, at *Building Code*, <http://wvleap.wvu.edu/fundamental-tools/building-code>. The use of on-site citations for code violations, making the process more like issuing parking tickets rather than a more complex process involving more formal notice and court proceedings, may save money on code enforcement and bring in revenue through increased payment of fines. *Id.* at *On-Site Citations*, <http://wvleap.wvu.edu/fundamental-tools/on-site-citations>. Vacant and uninhabitable property registrations can bring in revenue through fees charged to registrants. *Id.* at *Vacant Property Registration*, <http://wvleap.wvu.edu/fundamental-tools/vacant-property-registration>; *Id.* at *Uninhabitable Property Registration*, <http://wvleap.wvu.edu/fundamental-tools/uninhabitable-property-registration>. Enforcement of liens, or even negotiations involving the threat of imposing a lien, although not guaranteed successes, may help offset costs for demolition, repairs, and cleanup. *Id.* at *Liens for Demolition and Repair*, <http://wvleap.wvu.edu/fundamental-tools/liens-for-demolition-and-repair-under-the-building-code>; *Id.* at *Negotiating with Stakeholders*, <http://wvleap.wvu.edu/fundamental-tools/negotiating-with-stakeholders>; *Id.* at *Liens for Debris Removal After Fire*, <http://wvleap.wvu.edu/fundamental-tools/liens-for-debris-removal-after-fire>. Finally, partnerships with financial institutions may lead to loans, grants, or other forms of donation. *Id.* at *Partnership with Financial Institutions*, <http://wvleap.wvu.edu/fundamental-tools/partnerships-with-financial-institutions>.

167. *Id.* at *Public Pressure to Address Neglected Properties*, <http://wvleap.wvu.edu/fundamental-tools/public-pressure-to-address-neglected-properties>.

168. *Id.* at *Locating the Property Owner*, <http://wvleap.wvu.edu/fundamental-tools/locating-the-property-owner>.

169. *Id.* at *Partnerships with Financial Institutions*, <http://wvleap.wvu.edu/fundamental-tools/partnerships-with-financial-institutions>.

170. *Id.* at *Fundamental Tools*, <http://wvleap.wvu.edu/fundamental-tools/negotiating-with-stakeholders>.

The city attorney for the City of Spencer emphasized the successes he and the city's mayor had achieved by taking advantage of the agility of small-town life, ease of communication with residents, and both legal and non-legal approaches to blight redemption. The Toolkit recounts:

Tom Whittier, City Attorney for the City of Spencer, which has a population of about 3,000, describes the creative approach that he and Mayor Terry Williams take to neglected properties, using legal proceedings as "the last resort." After identifying problem properties and prioritizing them, the mayor contacts the owners himself and tries to work out a deal based on the particular problem. This ranges from simply encouraging the owner to make repairs to trying to convince the owner that the building poses substantial liability and title should be transferred to the City. "This has been," Mr. Whittier says, "to date, our most successful method of taking care of these buildings. They get donated to the city for a small amount, then the city demolishes about ten buildings a year."

But the City does not eat the costs; rather, the mayor tries to sell the acquired properties. "He talks to each of the neighbors and asks, 'If they tear down this building, will you buy this lot?' He acquaints himself with the neighboring houses and tries to work out deals, maybe selling half to one adjacent property owner and half to another, so the City can recoup a substantial amount of its demolition costs. Sometimes people need a spot for a garage or parking—we have narrow streets, and people like to buy space for parking, which we like because it gets cars off the street. The mayor uses what amounts to horse-trading, where the city acquires the property, demolishes the building, and sells the property to the neighbors for a substantial percentage of the demolition cost."

"If you can find someone to deal with, there are a lot of tools you can use," Mr. Whittier says. "You get involved in many aspects of different things and you try to minimize the conflict and work it out without having to use the legal system. When you use the legal system, it's slower and more conflictual." For instance, the mayor uses tools like partition, demolition liens, and tax sales indirectly, as bargaining chips, before fully pursuing the actual legal proceedings. "One tool is just to wake the owners up so they will take some action," Mr. Whittier explains. "The threat of partition is a more useful tool than the actual partition. It is a tool that you use to get people to solve their own problems," he says. For demolition liens, for example, Spencer officials will use their ability to impose a lien to encourage neglectful owners to sell to someone with the capacity to make repairs, bringing all of the parties together and emphasizing the owner's civic duty not to continue to burden the community.

Spencer also tries to negotiate to use resources efficiently, such as when it arranged to share a certified code official with the City of Parkersburg. "We didn't have anyone who was willing to get certified in Spencer. Finally, we worked something out with Parkersburg to use their certified code official. What we use is an informal inspection by the city, then if all other tools fail, we call in the certified inspector from Parkersburg to begin legal proceedings." Similarly, while properties with hazardous materials pose a challenge because there is no local hazmat company, the City of Spencer

negotiates with an out-of-town company to inspect or address multiple properties at a time for a discounted rate.

"Small cities need to minimize their costs," Mr. Whittier says. "The approach of our small city is that legal proceedings are the last resort. You try to use all the practical tools and the like before you resort to them. Then, when you start the legal proceedings, you try to use that as an impetus to get the resolution. We've been lucky. We've been successful in getting most cases resolved before we actually went through a full condemnation hearing. We've probably had two condemnation hearings in the course of taking down between 30 and 40 dilapidated buildings—we have an informal goal of doing 10 a year."¹⁷¹

A highlight in the "Partnerships with Financial Institutions" tool similarly underscores a success story that involved creativity and negotiation:

Wells Fargo, an "international banking and financial services company," has played an active role in working with the Business Development Corporation of the Northern Panhandle (BDC), a nonprofit organization based in Weirton, West Virginia, to address problems with dilapidated housing stock. Wells Fargo "acquires some houses after they have been foreclosed and, through its Community Urban Stabilization Program, partners with faith-based and other nonprofit groups to eliminate blight and make housing available to people with low- to moderate-incomes." Wells Fargo has additionally deeded numerous foreclosed homes to the BDC's housing initiative for repurposing.

The BDC uses market studies to strategically determine which properties to rehabilitate and which to raze. For several properties, Wells Fargo has provided a stipend for maintenance. However, even stipends may not cover all of the costs for problem properties. With funds set aside from its diverse programs, the BDC is able to absorb the costs of problem properties that require expensive maintenance or sell them for less than the cost of renovation.

The BDC has also partnered with CHANGE, Inc., a "community action and health agency that serves northern West Virginia." The BDC tends to renovate homes in transitional neighborhoods where potential homeowners often have low- to moderate- incomes. For one house the BDC renovated, CHANGE, Inc., screened applicants, provided credit counseling to prepare applicants for homeownership and credit approval, and provided down payment assistance. The partnership allowed the BDC to sell the home to a single mother working multiple jobs.

"The groups that are best equipped to handle these types of properties are the ones with layered partnerships," says Pat Ford, the BDC's Executive Director. "They're not on the hook by themselves. They say it takes a community to raise a child—it takes a community to deal with a property lot. As long as you've got a wide variety of resources to tap into, you can do it."¹⁷²

171. *Id.* at *Negotiating with Stakeholders*, <http://wvleap.wvu.edu/fundamental-tools/negotiating-with-stakeholders>.

172. *Id.* at *Partnerships with Financial Institutions*, <http://wvleap.wvu.edu/fundamental-tools/partnerships-with-financial-institutions>.

Mr. Whittier's account and BDC's experience illustrate how many legal and non-legal tools can be successfully interwoven in small, rural communities. Yet, these approaches' uniqueness and tailoring to local needs also reflect the need for a flexible framework so that each rural community can pick and choose the tactics that will work best for it.

The introduction to the Toolkit notes several basic principles that underscore the general discussion of legal and non-legal resources. It cites proactive behavior; collaboration; partnerships; communication; and a holistic, community-based approach as the hallmarks of successful approaches to blight redemption in West Virginia.¹⁷³ As mentioned above, the Toolkit also espouses principles of starting with basic measures before utilizing more sophisticated tools, such as land banks; incorporating a long-term planning perspective into the approach while simultaneously addressing more immediate needs; assessing the needs of the community in question and utilizing only the tools that make the most sense based on those needs; and encouraging regional cooperation in order to maximize resources. It also emphasizes focusing on certain principles and goals of more sophisticated tools while taking advantage of the greater intimacy and flexibility of a rural context in order to meet those goals, without using complex and expensive legal proceedings—something that West Virginia communities tend to do, as illustrated above.¹⁷⁴ As discussed below, these principles can inform a framework for addressing rural blight elsewhere.

C. Additional Tools, Land Banks, and Special Considerations

Part III of the Toolkit discusses "Additional Tools," and Part IV addresses "Land Banks." In these sections, the Toolkit observes that options such as eminent domain, tax sale, partition suits, and land banks (including, in West Virginia, redevelopment authorities and urban renewal authorities) can be expensive and time-consuming. Part III notes that they are "drastic measures" and states that "[t]hese tools are more expensive and are reserved for long-term problem properties where no other solutions have proven effective."¹⁷⁵ The "Special Considerations" section notes that issues such as historic preservation and contaminated

173. *Id.* at Introduction, <http://wvleap.wvu.edu/introduction>.

174. For instance, the Marquette County Land Bank benefited from acquiring only properties that had a known and intended end use. Generally, having an intended end use for a property can streamline the process of acquiring and transferring the title to a productive user. The account of the Spencer city attorney above shows that he recognized the importance of knowing an end use for a property and pursuing that use, but he did so informally through communicating with local residents. This approach allowed him to be as effective as a land bank without having to use the formal land banking process.

175. *Toolkit*, *supra* note 115, at *Additional Tools*, <http://wvleap.wvu.edu/additional-tools>.

properties may complicate blight redemption strategies.¹⁷⁶ These sections reflect the conclusion that these tools can and should be used successfully in rural communities, and complex legal issues needing consideration may arise. But for many communities, these areas likely should not be the first focus.

IV. Elements for an Approach to Rural Blight Redemption

Themes consistent with the findings from WV LEAP appear in existing literature on rural blight and rural economic development. For instance, in Shawn Irvine's account of the revitalization of Independence, Oregon, *Weaving the Fabric of a Successful Rural Community*, he emphasizes that "[e]verything starts with the city's community engagement efforts"; that planning processes and partnerships are integral to success; and that engagement and planning fueled entrepreneurialism and innovation.¹⁷⁷ "Together," Irvine argues, "they represent the fabric that creates the vibrant tapestry of a successful rural community."¹⁷⁸ Similarly, George Homsy and Mildred Warner conclude that themes of successful rural sustainable development initiatives involve recognizing the benefits of regulation, the importance of entrepreneurial leadership from local officials, and the importance of regional networks.¹⁷⁹

Eight elements that should be considered part of an effective rural blight redemption framework can be drawn from a synthesis of the WV LEAP findings and relevant literature. These include: (1) an emphasis on people as a resource, (2) local government engagement, (3) participatory planning, (4) establishment of a legal framework, (5) regional cooperation, (6) partnerships, (7) negotiations for creative solutions, and (8) use of rural agility. More specifically:

1. Local residents are one of a community's most important assets. Rural communities "depend more on citizen leadership."¹⁸⁰ Early successes from easier tasks and public education can be effective in garnering public support and building momentum for change.¹⁸¹
2. Local government initiative and enthusiasm is nevertheless essential. In one examination of case studies in small towns, more specific staff time that was dedicated to sustainability increased adoption of related policies.¹⁸² Entrepreneurial, creative leaders are a

176. *Id.* at *Special Considerations*, <http://wvleap.wvu.edu/special-considerations>.

177. Shawn Irvine, *Weaving the Fabric of a Successful Rural Community*, NAT'L CIV. REV. (2014).

178. *Id.*

179. Homsy & Warner, *supra* note 13.

180. *Id.*

181. *Id.*

182. *Id.*

fundamental component for galvanizing support and implementing relevant policies.¹⁸³

3. Just as no one planning or redevelopment vision will apply to all communities, so too will a standard blight redemption plan not work everywhere. But planning principles and participatory decision-making can inform and strengthen local blight redemption strategies. Residents and local government must work together to assess strengths and weaknesses, prioritize, and plan action steps, creating a plan tailored to local circumstances.
4. Communities need to work on making basic legal tools available before trying to jump ahead to large-scale, sophisticated approaches to blight redemption. In the case studies mentioned above, the most successful municipalities “started with the easiest strategies that ma[d]e the most sense in their community.”¹⁸⁴ Incorporation, comprehensive plans, relevant building codes, zoning, and measures such as uninhabitable or vacant property registries may need to come before land banks; other complex, resource-heavy approaches; or major grant initiatives.
5. Pooled resources can overcome the obstacle of limited local resources. “Entrepreneurial leaders do not act alone. Local and regional networks are important for public officials, especially for small town leaders.”¹⁸⁵ Communities can share code enforcement officials; coordinate with other communities to negotiate for package deals on services, such as hazardous material mitigation; and if appropriate, form initiatives such as land banks at the regional level.¹⁸⁶ “Municipalities that decide to work together within a region toward economic and environmental goals may find more success than individual efforts. Such programs are also more likely to be of interest to funders.”¹⁸⁷
6. Although they may be more difficult to form than in metropolitan areas, public-private partnerships may be more critical to successful rural blight redemption due to limitations on public resources. The BDC account and the Marquette County Land Bank discussed above show how, where available, partnerships and non-profit organizations can fill gaps in services that exist due to limited local government capacity.

183. *Id.*

184. *Id.*

185. *Id.*

186. Jourdan, *supra* note 25, at 158. Similarly, the success of the Marquette County Land Bank appears to stem from the resources available at the county level.

187. Homsy & Warner, *supra* note 13.

7. Communities can utilize aspects of small-town life as an asset, and interest-based negotiation should not be overlooked as a substantial tool. Local officials can take advantage of the fact that it may be easier to communicate and negotiate with stakeholders in their communities. Creative, win-win solutions may be more readily formulated and implemented due to ease of communication and community interconnectedness, as illustrated above by the Spencer city attorney's account.
8. Similarly, communities can attempt to serve the objectives typically pursued through legal proceedings without necessarily utilizing lengthy, expensive, formal processes. Rather, flexible, informal processes that do not resort to the law can produce creative solutions tailored to local needs, while saving expenses, not compromising community interest, and not making plans too complex to implement—the above-mentioned approach of negotiation likely being a critical consideration. While urban centers might have more noticeable successes, “[s]mall and rural places . . . have the advantage of agility.”¹⁸⁸ Generally, as one Wisconsin city manager stated, “You’ve got to make it easy to get things done. If you get tied up in committees and studies and consultants, it doesn’t last.”¹⁸⁹

Perhaps one of the most important principles often embodied in approaches such as land banks, receivership, and litigation is knowledge of the intended end use of the property at the outset of proceedings, whether it is sale to a new owner, redevelopment, or simple repairs. Determining the end use of a property at the outset of addressing it, and allowing that choice to shape the strategy of how to address it, can help communities streamline approaches, strategize the most effectively, and avoid unintended burdens.¹⁹⁰ Additional priorities that can be pursued flexibly include utilizing

188. *Id.*

189. *Id.*

190. As an illustration, if the end use envisioned is a park or a rehabilitated residential building, authorities could approach conservation groups or private developers to work with them to address the issue, while collaborating to develop incentives to motivate involvement. By contrast, if a more logical end use could be the expansion of a neighboring property owner's driveway, the strategy would first involve approaching the neighboring property owner with the idea. Knowing the end use first shapes the choice of appropriate strategy and partnership and can facilitate title acquisition. This approach also helps prevent the problem of communities being burdened with the expense and liability of titles to properties that no one wants or that will otherwise remain unproductive. Throughout these processes, chances to recoup costs, such as through profit divisions, taxes, citations, or less tangible benefits, such as the creation of green space, should be considered. Although the weaknesses of land banks have been discussed here, the Marquette County Land Bank illustrates this approach in that its very framework is tailored

public/private partnerships to promote development, using volunteer and community groups as a resource, and establishing cyclical, self-funding programs targeting blight remediation. Small communities can achieve these and other goals often embodied in large-scale urban tools without necessarily attempting to implement elaborate systems or pursue litigation.

Debra Bassett notes that “[i]n developing policies and programs to combat rural poverty, the temptation is to strive for an overarching plan—one plan applied consistently across all rural areas. However, rural poverty lacks unifying characteristics that would permit the application of a single program on a [nationwide] basis[.]”¹⁹¹ Similarly, Jane Mosley and Kathleen Miller argue that “the ameliorative or buffering effects of key variables, such as work, education and family structure, also vary by place . . . [which] suggest[s] that there is no ‘one-size-fits-all’ approach . . . and unique circumstances in rural areas call for unique and innovative policy approaches for rural populations.”¹⁹² The guidelines discussed here take these issues into account. Some standard tools, including building codes, zoning ordinances, and other ordinances addressing abandoned and dilapidated properties, will likely be universally helpful. But in a sense, by combining emphases on engagement, planning, legal fundamentals, negotiations, and partnerships, this approach places policymaking in the hands of local residents, allowing strategies to be crafted based on each community’s unique circumstances. The proposal here is a loose framework that can apply across rural places, but which will allow for organic creation of unique, innovative, and locally applicable policies and approaches.

Conclusion

More research is needed on what laws, policies, and programs have benefited rural communities most in efforts at blight redemption. The research discussed in this article illustrates how commonly used urban tools may sometimes be ill suited to meet rural needs and how rural communities may not have the capacity to use them. The eight elements discussed above emphasize that collaborating, establishing a legal foundation, strategizing based on local needs, and using a broad framework to craft tailored approaches are important aspects of addressing rural blight effectively. These principles can inform the construction of a framework on blight redemption in rural areas.

to local needs, and no properties are acquired without necessary resources and an end use in mind. *See also infra* note 174.

191. Bassett, *Poverty and Global Realism*, *supra* note 36, at 1.

192. Jane M. Mosley & Kathleen K. Miller, *Spatial Variations in the Extent, Causes, and Consequences of Poverty: A Comparison of Rural and Urban Places*, 13 GEO. J. ON POVERTY L. & POL’Y 169, 177 (2006).