

John R. Todd
1559 N. Payne Ave.
Wichita, Kansas 67203
(316) 312-7335 cell
March 23, 2017

Representative Kristey Williams, Chair
House Local Government Committee
Attn: Toni Beck, Committee Assistant
Statehouse: Room 165-W
Topeka, Kansas 66612

Subject: My OPPOSITION to House Bill No. 2404 (and Senate Bill No. 31)

Dear Representative Williams and members of the House Local Government Committee,

Subject: MY OPPOSITION to House Bill No. 2404 scheduled for a public informational hearing in the House Local Government Committee on March 23, 2017 at 1:30 p.m. in Room 281-N.

This bill lacks balance between cities and the rights of private property owners, and seems to be on a fast-track to passage without addressing several important key issues.

1. Property seizure without compensation.
2. Property seizure and rehabilitation without first obtaining legal title.
3. A provision for legal recourse for property owners to include compensation for damages and payment of their attorney's fees.
4. Elimination of the power given to non-elected non-profit entities.
5. Differentiation between vacant and abandoned properties.

Attached is a copy of my testimony given to the Senate Ethics, Elections and Local Government Committee on January 26, 2017 on Senate Bill No. 31 along with a copy of additional information requested by the committee dated February 5, 2017. (Attachments 1 and 2)

Please do not allow this bill to be considered for passage in the House as it is currently written without at least adding sufficient amendatory language to the bill that adequately protects the rights of private property owners. See attached Exhibit 1 for possible suggested amendments.

Protecting private property rights deserves citizen input for balance, and I would suggest the need for conversation between opponents and proponents of this bill during a summer conference committee before this onerous bill is passed into law as it is currently written.

Sincerely,



John Todd
Exhibit 1
Attachments 2

Exhibit 1 to John Todd letter dated March 23, 2017

Before you pass this unfair bill I would suggest a couple of amendments at a minimum.

1. Require due process of law finalizing the transfer of title to a property to the city before the property is seized for rehabilitation rather than after the fact.
2. I would recommend compensation equal to 150% of the value placed on the property as determined by the county appraisal office be paid to the property owner and/or heirs or other people who have a vested interest in the property. If people with an "interest" in the property cannot be readily located, the funds should be escrowed with the county treasurer with the following stipulation. Any party of "interest" in the property could use up to 1/3rd of the 150% of the escrow to hire attorneys and pay for the expenses incurred relating to locating all property owners in this effort. In the event "parties" of interest cannot be located within a five year period, the balance of the remaining funds would escheat to the state treasury.

John R. Todd
1559 N. Payne Ave.
Wichita, Kansas 67203
(316) 312-7335 cell
January 26, 2017

Senator Elaine Bowers, Chair
Senate Ethics, Elections and Local Government
Attn: Randi Walters, Committee Assistant (785) 296-7389
Statehouse: Room 223-E
Topeka, Kansas 66612

Subject: MY OPPOSITION to Senate Bill No. 31 scheduled for a public hearing in the Senate Ethics, Elections, and Local Government Committee on January 26, 2017 at 9:30 a.m. in Room 159-S

Dear Senator Bowers and members of the Senate Ethics, Elections, and Local Government Committee,

I OPPOSE the passage of Senate Bill No. 31 of 2017 since it is basically a slightly modified and expanded version of the Senate Bill No. 338 of 2016 that Governor Sam Brownback correctly vetoed. I see no new provisions in the 2017 bill that gives citizens any additional private property protection; rather, it strengthens local authorities "unmitigated power in determining which properties should be seized, allowing localities to write their own rules. It also cedes to municipalities the power to select which private organizations receive control of the property". This quote is from an e-mail the Governor's office issued in announcing his Veto of the 2016 bill (see copy attached). A "Message from the Governor" dated April 11, 2016 provides his excellent reasoning for the Veto, explaining, "The right to private property serves as a central pillar of the American constitutional tradition" (see copy attached).

Shortly after starting my career in the real estate business in 1976 I acquired my first rehab house. It was located in the Old Orchard area of Wichita that everyone considered one of the most economically challenged and difficult neighborhoods to work with in town. I paid the seller nearly \$20 thousand her dilapidated house that included three vacant single family building lots. It cost me in the range of

\$10 thousand to rehabilitate the house that included repairing a caved in concrete block basement wall. I sold the rehabilitated house and the lot it was on for the \$30 thousand I had invested in the transaction and wound up with the vacant lots free and clear. I sold the three lots to a builder for \$9 thousand cash and he subsequently built three new affordable entry level homes on them.

Now let's take a look at this private sector transaction:

1. The seller of the house received cash for her property through a mutually agreed upon transaction without coercion (no eminent domain) involved.
2. I rehabilitated the house and sold it to a young couple for their first home.
3. The builder who purchased the 3 vacant lots built three new houses that he sold to owner occupant homeowners.
4. The builder provided construction jobs and purchased building materials from local vendors.
5. The Orchard neighborhood saw immediate improvement and felt the benefits of economic uplift.
6. The City, County, and School District tax base was expanded providing with one rehabilitated and three new houses thus providing additional tax revenue to fund fire, police, public safety, and money to educate our children.
7. I paid Federal and state taxes on the profit I made in the transaction and I suspect the builder did too.
8. There was no need for government subsidies of any nature for this private sector transaction to work.

Now in contrast, let's take a look at how our local government has been handling similar neighborhood opportunities.

Please take a look at the attached Building Blocks Infill Project Area map to discover what has been happening in a predominantly African American neighborhood community in Wichita.

1. The vacant green rectangles are dozens of vacant lots where houses once stood that were bulldozed by the city.
2. The owners of these houses were paid \$0 for the houses that were taken by the city's bulldozer.

3. In my judgment, many if not a majority of these bulldozed houses had economic value and offered the potential for rehabilitation and the creation of low-cost entry level housing. (See exhibit A)
4. The city charged the property owner \$8 - \$10 thousand for bulldozing charges leaving the owner with a vacant lot that was left to produce high weeds and collect trash.
5. Most of the owners let their vacant lots go back for taxes and many were sold for \$100 or less and they received \$0 for their properties.
6. Thus the existing and potential tax base was lost as well as the wonderful opportunity for clean low-cost affordable entry level home ownership that is part of the American dream.
7. Some of the most vulnerable and economically challenged property owners of our city rightly feel helpless in the face of this devastation.

Now local governmental officials are asking you for additional powers through Senate Bill No. 31 to “deal” with this problem.

1. They want the power to seize unoccupied houses without compensating the owners anything for their property.
2. They want to empower non-profit (non-taxpaying) organizations of their choice to seize unoccupied houses without compensating the owners for their property.
3. The non-profits involved in the redevelopment of this neighborhood community with the exception of Habitat for Humanity rely heavily on tax subsidies for wealthy taxpayers and generous Federal subsidies in the range of \$50 thousand for each house built and sold.
4. I hear talk of Tax Increment Financing (TIF) to finance redevelopment in this community. The TIF program is simply a diversion of tax revenue that needs to go to city, county, and school district treasuries and not flow back to developers.

I see nothing in Senate Bill No. 31 that does anything to promote private sector redevelopment.

Is there a private sector solution? I say YES and I see it happening.

Private sector investors, contractors and homeowners are stepping up and seizing opportunity (See Exhibit B). This economic uplift is healthy for the neighborhood community, expands the tax base, and offers an opportunity for investor/contractor profit in some cases or low-cost affordable home homeownership in others.

The rehabilitation of existing houses and redevelopment on vacant "infill" is best achieved by the private sector and not by government planners or their favored non-profit entitles.

The taking of property by local government without compensation is wrong. I believe that was what Governor Brownback was saying in his veto message, "Government should defend and protect the property rights of all citizens, ensuring that the less advantaged are not denied the liberty to which ever other citizen is entitled."

I urge you to OPPOSE passage of Senate Bill No. 31!

Sincerely,



John R. Todd
A Kansas Citizen

Enclosures and Exhibits: several

Deputy Communications Director

Office of Governor Sam Brownback



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You are currently subscribed to gov-grassroots as: john@johntodd.net. To unsubscribe click here: <https://list.da.ks.gov/u?id=1622155.e9fbdf67e5defb7fdf71c43f62109a71&n=T&l=gov-grassroots&o=222314> or send a blank email to leave-222314-1622155.e9fbdf67e5defb7fdf71c43f62109a71@list.da.ks.gov

**MESSAGE FROM THE GOVERNOR
REGARDING Senate Bill 338**

The right to private property serves as a central pillar of the American constitutional tradition. It has long been considered essential to our basic understanding of civil and political rights. Property rights serve as a foundation to our most basic personal liberties. One of government's primary purposes is to protect the property rights of individuals.

The purpose of Senate Bill 338, to help create safer communities, is laudable. However, in this noble attempt, the statute as written takes a step too far. The broad definition of blighted or abandoned property would grant a nearly unrestrained power to municipalities to craft zoning laws and codes that could unjustly deprive citizens of their property rights. The process of granting private organizations the ability to petition the courts for temporary and then permanent ownership of the property of another is rife with potential problems.

Throughout the country, we have seen serious abuse where government has broadened the scope of eminent domain, especially when private development is involved. The use of eminent domain for private economic development should be limited in use, not expanded. Senate Bill 338 opens the door for serious abuse in Kansas. Governmental authority to take property from one private citizen and give it to another private citizen should be limited, but this bill would have the effect of expanding such authority without adequate safeguards.

Kansans from across the political spectrum contacted me to discuss their concerns that this bill will disparately impact low income and minority neighborhoods. The potential for abuse of this new statutory process cannot be ignored. Government should protect property rights and ensure that the less advantaged are not denied the liberty to which every citizen is entitled.

There is a need to address the ability of municipalities and local communities to effectively maintain neighborhoods for public safety. However, Senate Bill 338 does much more. Though I am vetoing this bill, I would welcome legislation that empowers local communities to respond to blight and abandoned property that does not open the door to abuse of the fundamental rights of free people.

Dated: April 11, 2016

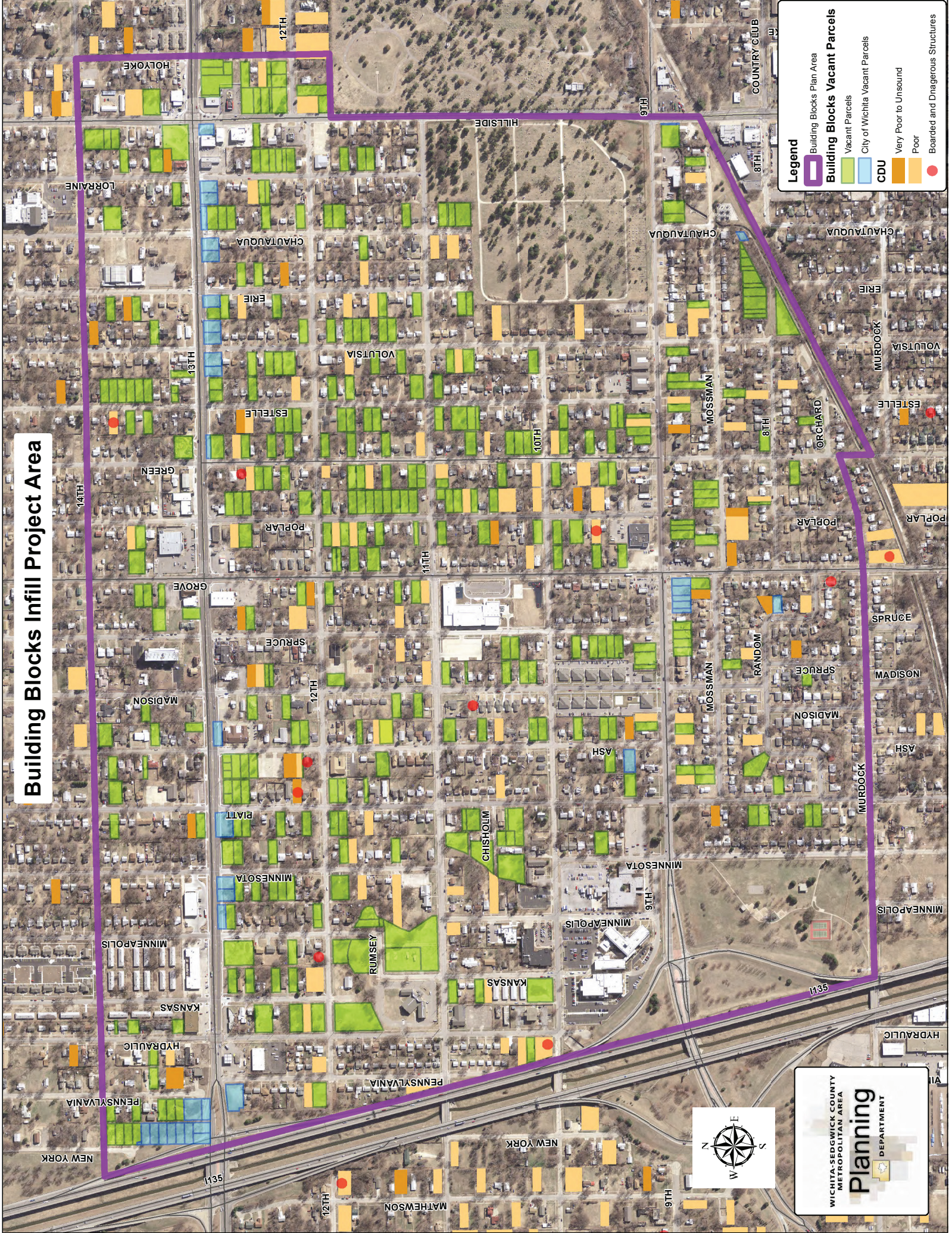
A handwritten signature in black ink that reads "Sam Brownback". The signature is written in a cursive, flowing style.

Sam Brownback
Governor of Kansas

Building Blocks Infill Project Area

Legend

- Building Blocks Plan Area
- Building Blocks Vacant Parcels
- Vacant Parcels
- City of Wichita Vacant Parcels
- CDU
- Very Poor to Unsound
- Poor
- Boarded and Dangerous Structures



WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA
Planning
DEPARTMENT

EXHIBIT A



Over the last few years literally hundreds of vacant houses like the pictured house have been bulldozed for housing code violations by the City of Wichita and the property owner(s) were paid nothing for their destroyed houses. My personal unofficial guestimate is that 4 out of 5 of the houses destroyed in the city of Wichita were located in a predominately African-American community. Houses of similar design and floor plans and age were built in other neighborhood communities across Wichita and have not been torn down. Does this represent selective

enforcement of the law? Is this the only neighborhood in Wichita with these types of housing violations? In my opinion, many of the houses had economic value that could and should have been saved from bulldozing and rehabilitated into low cost AFFORDABLE HOUSING.



When the City of Wichita bulldozed these houses, I have been advised by city officials that the cost of demolition is in the \$8-10 thousand range per house. This demolition cost gets charged back against the vacant lot and the property owners are paid nothing for their property.



Over recent years, literally hundreds of houses have been bulldozed through Wichita city government mandated action leaving hundreds of vacant lots like the lot pictured that collect trash, grow high weeds, draw rodents, and themselves create a “blighting” influence on the neighborhoods in which they are located. I have a map showing the vacant lots in what was a predominately African-American neighborhood. With a \$8-10 thousand bulldozing fee attached to each lot it is easy to understand why most of these vacant lots are sold at a Sedgwick County tax sale. I have witnessed these lots selling for less than \$100 each and can’t recall any selling for more than \$500.00.

EXHIBIT B1



This house was purchased by an enterprising young couple who recognized the opportunity for rehabilitation and seized it. Though a Spanish interpreter they related that they paid \$1,900 total for this run-down house and were rehabilitating it as a home for their young family. By doing the work themselves they indicated that they were able to hold rehabilitation costs to around \$16,000 for a total rehabilitated cost of \$17,900. I am of the opinion that this rehabilitated home would retail as low-cost AFFORDABLE HOUSING in the \$30 thousand

plus range. I know of a private investor who buys similar homes from property owners whose houses are subject to the City's bulldozer. He pays these property owners \$1-2 thousand for their houses and then rehabilitates them for rent and/or sale.

Before



After



This centrally located house was recommended for demolition to the City Council by the Board of Building Code Standards and Appeals, but fortunately I spread the word of this house's demise to a real estate agent who works this area and next thing we know an investor had purchased the house for rehabilitation. Word on the street is that the house was purchased in the \$4 thousand range. After rehabilitation the house was listed for sale for \$129,900. What an economic tragedy if this house had been bulldozed! It is still on the tax rolls providing uplift for the neighborhood as well as a nice home for someone.

EXHIBIT B2

Before



After



This house located in near northeast Wichita was recommended for demolition to the City Council by the Board of Building Code Standards and Appeals, but fortunately an investor found the property and purchased it in a voluntary transaction for \$9 thousand. WOW what a save for the tax base and neighborhood!



This house located in near northeast Wichita was recommended for demolition to the City Council by the Board of Building Code Standards and Appeals, but fortunately a couple found the property and purchased it in a voluntary transaction for just over \$10 thousand. After they rehabilitate the house they plan to make it their home. Compensation to the seller and a saved owner occupied house for the neighborhood is a real win.

EXHIBIT C

(To Be Bulldozed)



(House Rehabilitated and Saved)



The City Council has slated this bungalow for bulldozing. I am of the opinion that it has economic value and with the right owner it could have been rehabilitated to look like the saved picture.



The City Council has slated for this house to be bulldozed unless the owner can pull something together fast. I understand the owner is unable to come up with the funds and probably lacks the expertise to rehabilitate the house. In my opinion the house has economic value and should not be bulldozed.

John R. Todd
1559 N. Payne Ave.
Wichita, Kansas 67203
(316) 312-7335 cell
February 5, 2017

Senator Elaine Bowers, Chair
Senate Ethics, Elections and Local Government
Attn: Randi Walters, Committee Assistant (785) 296-7389
Statehouse: Room 223-E
Topeka, Kansas 66612

Subject: Additional information your committee requested regarding MY
OPPOSITION to Senate Bill No. 31 (Committee Hearing on 26 January 2017).

Dear Senator Bowers and members of the Senate Committee,

When I appeared before your committee on January 26th I was asked to provide additional information back to committee members about the method I would suggest regarding locating the owners of abandoned property? This letter is in response to that question.

1. Please take a look at the “Building Blocks Infill Project Area” map that is attached as part of the testimony I presented at the January 26, 2017 hearing. The green rectangles represent “vacant” lots where dozens of privately owned houses were demolished by our city without “compensating” the property owners for the “taking” of their houses. Does anyone seriously believe that Wichita city staff people sitting at a desk in city hall could not successfully locate some of these property owners? Yes, I do! As a private sector real estate practitioner I can assure you that I or any experienced real estate person could have successfully located a majority of the property owners on this map. Sending Certified Letters as city staff members do to the last known address in county records does not cut it. Does anyone trust

county records to show property owner deaths, the location of residents moving across town, or into care homes or in with family members, or any other variety of reasons for moving from the property? No, but these are the records our city uses in their cursory attempt to locate property owners. My personal experience and the examples that are detailed in this letter below provide testimony that enterprising private sector real estate practitioners know how to find property owners!

2. Exhibit B1 shows pictures of a house with housing code violations that at the time the picture was taken was in the process of rehabilitation by a Hispanic couple who purchased the house to live in. This is a great example of a house with economic value that was saved from a potential city bulldozer that now serves as a fine example of a low cost Affordable entry level single family residence. The house remains on the tax rolls with the owners paying taxes for police, fire, public safety, and schools to educate our children not to mention the positive UPLIFT in a neighborhood community that sorely needs private sector economic uplift!
3. Also located in Exhibit B1 is a before rehabilitation picture of a house that was recommended to the city council for demolition. I suspect this house represents a classic case of where city staff found no owner of the property. Within a 12 hour period after I called a real estate agent who works this neighborhood, there were two separate buyers for this rehabilitation opportunity. Today after rehabilitation we have a house on the market priced at \$129,900 that will provide a nice home for someone who will pay ad valorem property taxes to support city, county, public schools, and our state.
4. Exhibit B2 shows two other success stories of houses saved from the City of Wichita's bulldozer by private sector home buyers and investors.
5. Exhibit C shows two houses that are currently on the path to bulldozing. Both in my opinion have economic value and deserve being converted (by the private sector) into affordable low cost housing units. The renovation needs to be done by private sector taxpaying entities, rather than by non-profit groups that pay no taxes

for fire, police, public safety, and our public schools needed to educate our children.

In addition to rehabilitating houses during my active career in real estate, I purchased “infill” lots in the Park City community just north of Wichita. Working with a private sector builder we built and sold (for “profit”) an average of 20 houses per year over a 15 year period or 300 homes. Sustainable economic uplift of this type without government subsidy or intervention works. The “private-sector” miracle I witnessed in Park City resulted in the creation of high paying construction jobs, a greatly expanded tax base, along with tremendous economic UPLIFT for the Park City community.

When I look at the vacant houses with code violations in Wichita I see nothing but OPPORTUNITY for community uplift rather than the destruction that has been going on in a predominately African American neighborhood for too many years. If I were 20 years younger and still active in the real estate business I would seize the economic OPPORTUNITIES that this neighborhood offers. Over the last several months I have had success in locating several private sector entrepreneurs who are interested and capable of capitalizing on these opportunities.

Please take a look at the list of 16 houses that were bulldozed in 2015. Twelve of the sixteen houses destroyed were in the 67214 neighborhood. This smacks of selective enforcement of current property code ordinances, and all of this destruction was done within current law without the need for expanded local authority.

Before you give the City of Wichita or other cities additional “tools” to deal with abandoned properties, please ask yourselves these questions regarding the passage of Senate Bill No. 31?

1. Why is there is no provision in the bill for compensating property owners for the “taking” of their property?

2. Why are you not requiring compensation to property owners equal to or greater than the property values assessed by our county appraiser?
3. If you pass this bill, aren't you essentially providing local governmental units with a method to circumvent current eminent domain statutes?
4. Is there a potential for "selective" enforcement of the law?
5. Why are we placing non-profit entities that pay no taxes in a priority position with a competitive advantage to private sector companies that pay taxes?
6. Why is there a need to shorten the time for tax sales to two years from current statutes?
7. Isn't the current tax sale statute already in place a successful method of transferring property to willing tax sale buyers through a public sale?
8. Is there a social cost to routinely depriving people of their properties particularly when one neighborhood community is impacted to a greater degree than both similar and lower economically deprived communities?
9. Is this selective enforcement of the law?
10. What do these property takings against poor and vulnerable people do to produce neighborhood community uplift?
11. What "tools" are you going to offer economically challenged "poor" property owners as a means of defending themselves against these government takings?

There is no question in my mind but that the private sector provides a better solution towards this issue.

1. The purchase of property by the private sector involves a willing buyer and willing seller agreeing to a voluntary transaction with mutually agreed upon compensation without government imposed coercion.
2. Please take time to read copies of Governor Brownback's messages regarding the importance of private property rights when he VETOED a similar bill passed during the 2016 legislative session.

The taking of property by local government or their non-profit surrogates without compensation is wrong and the City of Wichita provides a good example that cities have no need for additional “tools” to deal with properties like those pictured in the January 26th testimony they submitted to this committee. They can board doors and windows under current law and they have proven that they can bulldoze property with impunity.

Since the 1960’s my observation of government driven solutions towards solving complex real estate problems has been less than stellar and counterproductive to our economically, mentally, and physically challenged property owners who have more often than not been victimized by the strong and perhaps well intentioned intervening hand of government.

I believe the private sector represents the vehicle towards achieving sustainable long-term solutions to dealing with housing issues.

I would be willing to meet with anyone in an effort to craft an economically uplifting solution to this problem that protects private property rights.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Todd". The signature is fluid and cursive, with a prominent loop at the end.

John R. Todd
A Kansas Citizen

Enclosure 1

**List of Properties
Demolished by the City of Wichita
January 1, 2015 through December 31, 2015**

Case Number	Address	Processed Date	Resolved Date
DNB2014-00040	1321 N SANTA FE AVE WICHITA KS 67214	06/03/14	09/11/15
DNB2014-00044	347 N ASH ST WICHITA KS 67214	06/12/14	02/25/15
DNB2014-00045	2922 E MOSSMAN AVE WICHITA KS 67214	06/12/14	05/07/15
DNB2014-00071	541 N OHIO AVE WICHITA KS 67214	09/25/14	05/05/15
DNB2014-00074	2047 N MINNESOTA AVE WICHITA KS 67214	09/25/14	05/08/15
DNB2014-00075	2513 E SHADYBROOK LN WICHITA KS 67214	09/25/14	05/12/15
DNB2014-00076	2519 E SHADYBROOK LN WICHITA KS 67214	09/25/14	05/12/15
DNB2014-00078	2301 E SHADYBROOK LN WICHITA KS 67214	09/26/14	12/07/15
DNB2014-00091	357 N PENNSYLVANIA AVE WICHITA KS 67214	12/09/14	10/08/15
DNB2014-00094	1611 N HILLSIDE AVE WICHITA KS 67214	12/09/14	09/09/15
DNB2014-00096	6105 S MINNESOTA AVE WICHITA KS 67216	12/09/14	09/22/15
DNB2014-00098	1448 S HANDLEY ST WICHITA KS 67213	12/09/14	08/20/15
DNB2015-00029	1639 S LULU AVE WICHITA KS 67211	03/19/15	09/17/15
DNB2015-00035	6109 S OSAGE ST WICHITA KS 67217	03/19/15	11/30/15