



Neighborhood  
Preservation  
Inc.

# Enforcement of Property Maintenance: The Heirs' Property Challenge in Memphis

**Panel: Heirs' Property as a non-Rural Phenomenon**

**Speaker: Steve Barlow, President, Neighborhood Preservation, Inc.**

# Who is Steve Barlow?

## Current Roles:

- President of Neighborhood Preservation, Inc.
- Part-Time Litigator, City of Memphis
- Co-Director of Anti-Blight Litigation Clinic at Law School
- Robert Wood Johnson Interdisciplinary Research Leadership Fellow
- Board Member, Keep Tennessee Beautiful

Education: JD, MA (Applied Anthropology), BA (Theology)





*NPI's Mission:* We clear the path to revitalized Memphis neighborhoods by resolving systemic causes of blighted properties.

# What kind of a challenge do blighted properties represent to communities?

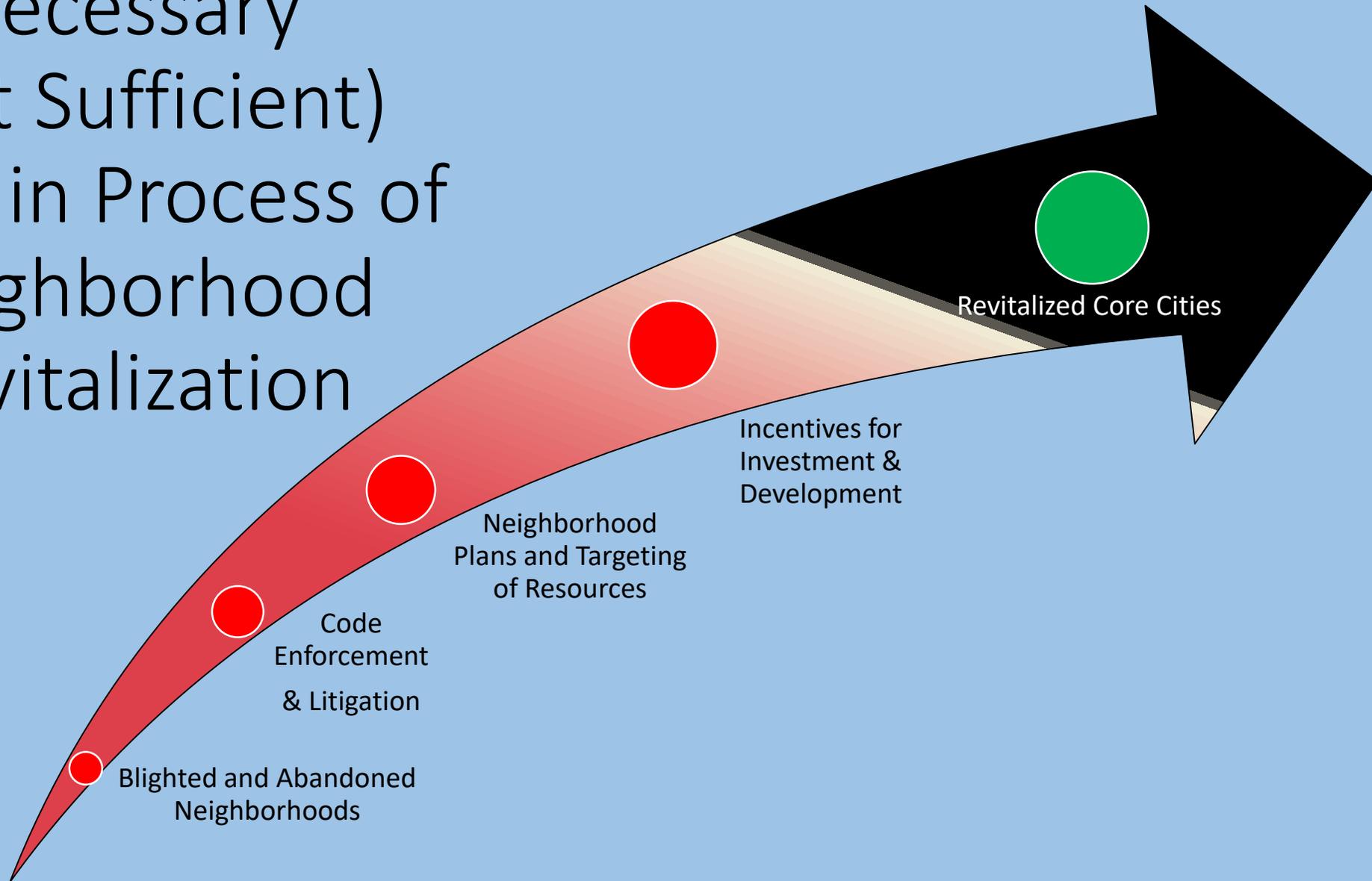
- Technical Challenge: With enough funds, you can hire an expert and once the expert's recommendations are made your problem is solved
- Adaptive Challenge: Many people and agencies are needed – the way we have always done things needs to change – many systems are broken – there is no single expert who can take us out of this mess . . .

See [Introduction to Adaptive Leadership](#) (Heifetz and Linsky)

- Whatever else it takes, I am convinced that without a dedicated and innovative legal team at the helm, efforts to address systems that perpetuate blighted properties will stall.

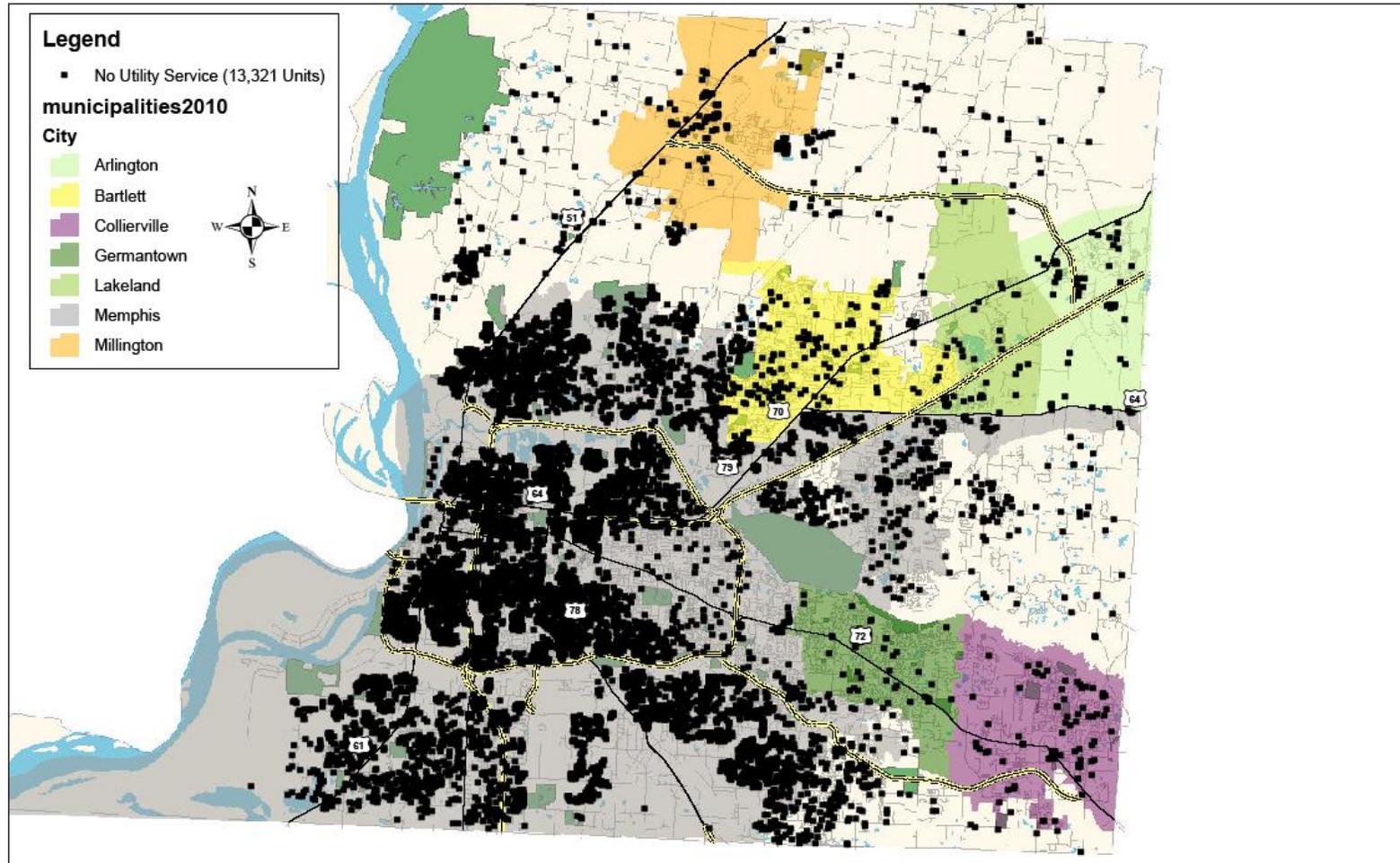


# Necessary (Not Sufficient) Steps in Process of Neighborhood Revitalization



# Why Blighted Properties Matter – SCALE

## Black Dot=No utilities for >1 year



Map Date 4/25/11  
Shelby County ReGIS (901) 678.2470

**Residential Housing with no utility service in 2010**

# Blighted Property in Memphis

- 9,500 vacant and abandoned houses
- 3,500 units of abandoned multi-family housing
- More than 15,000 vacant lots
- Code Enforcement addresses (READ CUTS GRASS AT) 10,000 properties each year!























# Why Blighted Properties Matter – QUALITY OF LIFE



# Why Blighted Properties Matter – HEALTH

- Environmental hazards
- Allergies
- Insect-related illnesses
- Emotional/psychological effects
- May cause higher levels of stress, poorer health, and less preparedness for school



# What Can Be Done?

- COLLABORATE AND COMMUNICATE
- SHARE DATA ABOUT PROPERTIES
- STRENGTHEN CODE ENFORCEMENT OPERATIONS
- STREAMLINE PROPERTY TAX FORECLOSURE PROCESS
- BUILD LAND BANKING SYSTEM
- UNDERSTAND MARKET REALITIES AND NEED IS ALWAYS GREATER THAN RESOURCES – TOUGH CHOICES MUST BE MADE





Neighborhood  
Preservation  
Inc.

What Have We Done: Stories From Memphis

Blight Charter, Law Clinic & BAM!

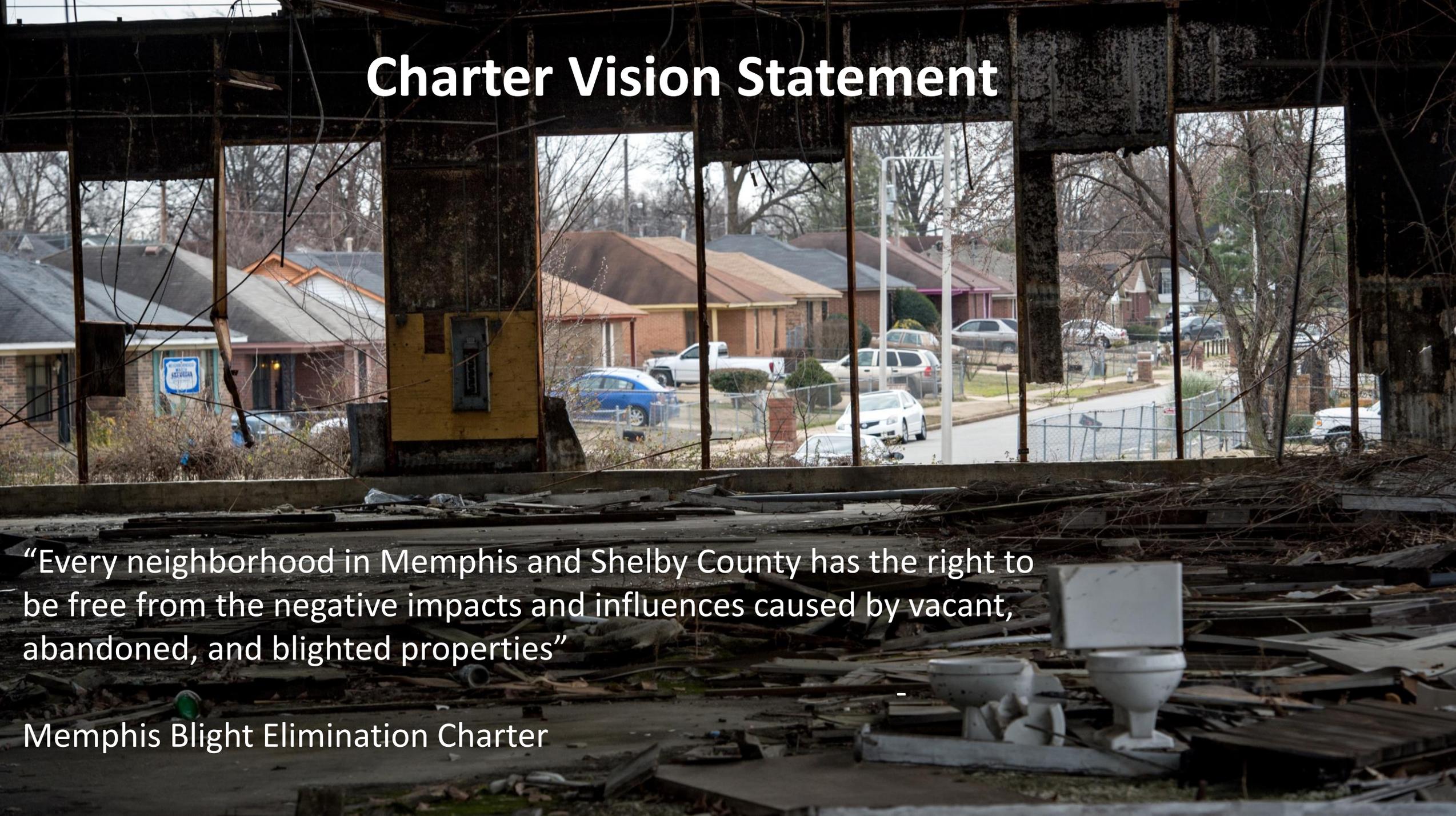


# BLIGHT ELIMINATION CHARTER

The Memphis Neighborhood Blight Elimination Charter was developed in collaboration with a steering committee representing Memphis' grassroots, public sector, and business communities.



# Charter Vision Statement



“Every neighborhood in Memphis and Shelby County has the right to be free from the negative impacts and influences caused by vacant, abandoned, and blighted properties”

Memphis Blight Elimination Charter

# Neighborhood Preservation Law School Clinic

What is Environmental Court – Who is Judge Potter – building on shoulders (started 1980s)

What is Neighborhood Preservation Act;

What is a law school clinic and why did we ask for help;

Current cases – Focus on Heirs' Property Challenges



# Shelby County Environmental Court: One of a Kind

- Source of Authority – Tennessee Private Act (1991 Ch. No. 426, S.B. No. 1046)
- How it differs from General Sessions Court
  - Unlimited jurisdiction in certain cases
  - Appeals to Tennessee Court of Appeals in certain cases
- How it differs from City Court



# Tennessee Neighborhood Preservation Act

(a) Any nonprofit corporation as defined in § 13-6-102, or any interested party or neighbor, may bring a civil action to enforce any local building, housing, air pollution, sanitation, health, fire, zoning, or safety code, ordinance, or regulation applicable to buildings against the owner of any building or structure that is vacant or occupied by any owner, tenants or residents for failure to comply with that ordinance or regulation.

Tenn. Code Ann. § 13-6-106 (West)



# Neighborhood Preservation Legal Clinic

- Partnership between the University of Memphis School of Law and the City of Memphis Attorney's Office launched in January 2015
- Represents City in Tennessee Neighborhood Preservation Act cases
- Students experience lawyering from the standpoint of the municipal lawyer and municipal administration
- Students handle all aspects of casework under supervision
- Students participate in weekly seminar
  - Study applicable law and policy, code enforcement strategies, and challenges surrounding vacant, abandoned and neglected properties
- Students present workshops and trainings
  - City Counsel
  - Memphis Code Enforcement
  - Neighborhood Groups
- Only law school clinic of its kind



# Neighborhood Preservation Clinic: Results\*

- 560+ New NPA lawsuits filed
  - More than 200 new lawsuits filed by Clinic students
  - Total current lawsuits: 730+
- 174 Completed, court-rehabilitation rehabilitations of previously condemned houses
- 228 Court-ordered demolitions
- 75 Cases referred to administrative condemnation due to complexities of personal service
- 35 Cases dismissed due to intervening tax sale

\*Since January 2015





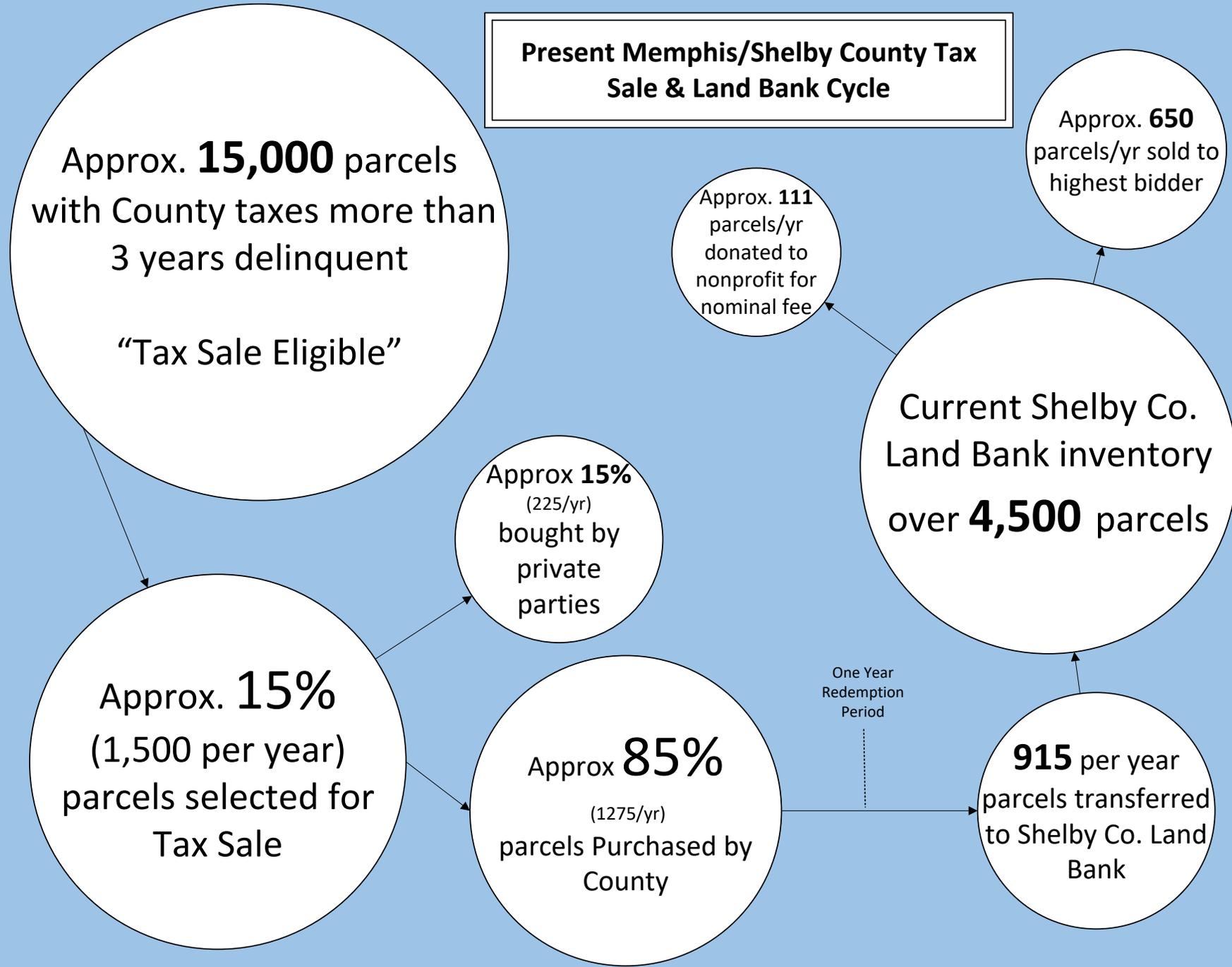
# Neighborhood Preservation Clinic: Notable Accomplishment

## Pendleton Arms Apartments

- 15 two-story buildings with 168 apartment units
- Stretching over 9.6 acres near Charjean Park and Airways Middle School
- Vacant for 10 years
- Single-asset Owner located in Sandy, Utah
- Demolition commenced in August 2016 (now complete)



**Present Memphis/Shelby County Tax Sale & Land Bank Cycle**



# Heirs' Property in the Memphis Enforcement Context

- ALL WE CARE ABOUT IS COMPLIANCE – We want to FIND AN ACCOUNTABLE OWNER to make repairs or demolish a (usually) residential structure
- If we can't get voluntary compliance, we need jurisdiction and service (for administrative or court enforcement) (SEE SLIDE 35)
- What if DECEDENT'S heirs:
  - Don't Want the Property?
  - Don't Agree on Disposition?
  - Cannot be found?
- USUALLY – Our Cases Arise LONG After decedent's death - SEVERE Dilapidation
- What about EQUITY?
- Predatory Lending Situations
- Mortgage Walk-Away Situations



# Heirs' Property in the Memphis Enforcement Context

- Additional Tools and Approaches Needed, But What is the City's Role in these?
  - Better People Finding Capacity!
  - Partition Suits?
  - Eminent Domain?
  - Quiet Title Actions?
  - Probate Action?
  - Coordinated Property Tax Sales?
- What about Prevention?
  - Will Clinics?
  - Transfer on Death Deeds?
- Neighborhood Stabilization Impacts **Likely** with Early Intervention



# 2015 International Property Maintenance Code: Provisions Regarding Service

**[A] 107.3 Method of service.** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

**[A] 108.3 Notice.** Whenever the *code official* has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner*, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

## SECTION 107 NOTICES AND ORDERS

**[A] 107.1 Notice to person responsible.** Whenever the *code official* determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

**[A] 107.2 Form.** Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

# Tennessee Neighborhood Preservation Act: Provision Regarding Service

T. C. A. § 13-6-106 (c) In the civil action, notice shall comply with Tennessee Rules of Civil Procedure, Rule 4. Additionally, notice shall require that a copy of the complaint be posted in a conspicuous place on the building and that the complaint be published in the local paper.

**READ** (In Shelby County, Tennessee Environmental Court): Actual Personal Service



Neighborhood  
Preservation  
Inc.

A Story of Hope – Believe It Can Be Different!!











# WE ALL HAVE A SECRET BIG IDEA FOR MEMPHIS

Join Mary Baker and Ray Brown  
at Carnes Elementary Garden  
and post your idea to  
Create Memphis today.

#CreateMemphis  
[ioby.org/memphis](http://ioby.org/memphis)



ioby





# HOW TO REACH ME



Steve Barlow, President  
Neighborhood Preservation, Inc.  
901.605.8209 (call or text)

[steve@npimemphis.org](mailto:steve@npimemphis.org)



See also:

[www.MemphisFightsBlight.com](http://www.MemphisFightsBlight.com)

[www.NPIMemphis.org](http://www.NPIMemphis.org)