



LAND BANKS: INVESTING IN COMMUNITIES, BANKING ON REVITALIZATION

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- *Maintaining Properties in Foreclosure—How Communities Across America are Responding to the Vacant Property Crisis in Their Own Backyards*
- *Water Rights—A White Paper Report*
- *Building Codes: Origins and Implementation*
- *Hydraulic Fracturing: Framing the “Fracking” Frenzy*
- *State and Local Taxation—A White Paper Report*

Preface

Many recent events have culminated in the rise of and popularity of land banks in the United States. Perhaps the most notable catalysts were the deindustrialization of many of America's once-booming manufacturing cities, as well as the more recent financial crisis and burst of the housing bubble. Evidence of the impact of these events lies in the sheer number of vacant properties across the country. Estimates by the United States Census Bureau put that number around 14 million in 2013.

It is now well-established that land banks can play a pivotal role in redeveloping some of our country's most degraded areas. Due in part to the implementation of policies that help land banks quickly acquire tax delinquent properties, these entities are able to support programs that can transform local areas through demolition and redevelopment practices that meet local community needs.

Land banks are now in operation in twenty-three states across the country. This prevalence is not all that surprising, given their benefits. Land banks provide a key means to return tax-delinquent property to productive use by allowing county governments to gain control of foreclosed properties, eliminate tax liens, and provide clear title. While these are certainly important contributions in relation to property development, land banks also do much more through programs that stimulate and support community projects, such as community gardens and green spaces, that help revitalize local communities.

Community development is a key area of concern for land banks, and local residents are often instrumental in helping land banks manage and reduce their inventories. Land banking programs work to stabilize neighborhoods by demolishing or repairing non-viable structures, while also improving the aesthetic look of an area

through environmental maintenance programs. These stabilization efforts are an essential first step in any community development initiative. Following periods of stabilization, land banks are instrumental in community building by providing low-cost housing and programs that stimulate community social interaction around the shared maintenance of a neighborhood.

Due to their important role in the community stabilization and development process, land banks are generally viewed as positive community assets. Of course, land banks are not without their critics. Frustration among community members surrounding land banks generally stems from a lack of understanding about how they operate and a desire for land bank work to be done at a quicker pace. This goal can be hard to achieve, since land banks are often non-profit organizations that must compete for development funds. Despite these criticisms, land banks have proven to be an important element in transforming communities in a way that stimulates both economic and social growth.

This White Paper offers an in-depth discussion of the history and development of land banks and how land banks work, then outlines the major benefits and difficulties identified with developing and operating a land bank at the local level. The following chapters will help the reader better understand the role of land banking in the real-estate industry.

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The information presented in this White Paper is not intended as, nor should it be construed as, legal advice. Consult an attorney with experience in the relevant practice area for counsel on particular legal questions relating to land banking or any other areas of concern.



I. What Is a Land Bank?

A. No Tellers or ATMs, But Some Similarities with Traditional Banks

A land bank is not actually a “bank,” in the traditional sense of the word. There are no drive-up ATMs, no tellers, and no home equity or auto loans. Land banks are actually public or community-owned entities that are created to acquire, manage, maintain, and repurpose vacant and abandoned properties, most of which have fallen victim to tax foreclosure. Over 20 states are currently home to formal land bank programs.¹ While many of these programs are in areas with large-scale blight and significant abandonment, more communities are now seeing the benefits of proactively implementing a land banking program to prevent contagious blight from taking hold and spreading across their neighborhoods. Land banking allows states, counties, and cities to remove abandoned properties from the traditional market for a period of time, and then convert them to new, productive uses, or hold them in reserve for long-term strategic planning.²

A land bank is not the same as a land trust, in which property may be held in perpetuity for a community purpose, such as affordable housing or conservation.³ In this respect, a land bank is more like a real bank into which valuable deposits are made, but

¹ F. Alan Shirk, [Land Banks Help Restore Abandoned Neighborhoods](#) (Sustainable City Network June 12, 2014) (referencing works by Frank S. Alexander); Dan Kildee & Amy Hovey, [Land Banking 101: What Is a Land Bank?](#) (Center for Community Progress/U.S. Dept’ of Housing & Urban Dev. Neighborhood Stabilization Program), at 2.

² Frank S. Alexander, [Neighborhood Stabilization & Land Banking](#) (Fed. Reserve Bank of Boston Summer 2009), at 4.

³ Some communities have established “conservation land banks,” which are different from the land banks discussed here. These banks purchase vacant land and maintain it as open space. One example of a conservation land bank is the [Nantucket Islands Land Bank](#), which purchases land and holds it in trust for the public. The properties maintained by the trust include beaches, wetlands, rare species habitats, and recreational spaces.

then “withdrawn” when they are needed.⁴ Generally, communities that employ land banking do so not with the goal of holding a large public inventory of land, but with the idea of conveying properties to not-for-profit entities for the development of affordable housing, or, secondarily, to foster economic redevelopment by conveying properties to for-profit or non-profit entities to create mixed-use developments or mixed-income housing.⁵ Simply holding onto property achieves little in terms of revitalizing communities, so achieving expeditious property reoccupation and returning it to the tax rolls is usually the focus of land banking. Long-term planning does occur, however, when the strategic purposes of a land bank include future parks or green spaces, or creation of affordable housing in a market where gentrification is causing pricing concerns.⁶

Land banks are often created to replace antiquated “liquidation”-based systems, such as traditional tax foreclosures, whereby the government trades its interest in tax-delinquent property to speculators, often for pennies on the dollar.⁷ These liquidation-based methods tend to focus on the meager collections derived from such transactions, with little consideration of the impact on surrounding properties. Liquidation-based systems can devastate a neighborhood already struggling to hold its own in a weakened market. When local governments sell interests in abandoned properties to investors

⁴ Alexander, [Neighborhood Stabilization & Land Banking](#), at 4. In fact, as Alexander points out, despite their dissimilarities, land banks actually serve four functions that are directly analogous to more familiar forms of banking: storing assets, stabilizing secondary markets, holding capital reserves, and operating within a regulatory framework. [Id.](#) at 5.

⁵ [Id.](#) at 4.

⁶ [Id.](#) Gentrification occurs when middle- and upper-income homeowners take over an otherwise deteriorating area and renovate the properties, such that low-income residents are displaced.

⁷ Kildee & Hovey, [Land Banking 101: What Is a Land Bank?](#), at 2.

who view the property not as real estate, but merely as an on-paper investment to be sold to another investor, or simply as a loss in the larger pool of properties or tax liens the investor has acquired, it is less likely that the sale will lead to purposeful reinvestment in those properties. Moreover, families are not likely to shop for the family homestead at tax lien sales, and developers rarely if ever seek the site for their next multi-million-dollar project at a courthouse auction.⁸

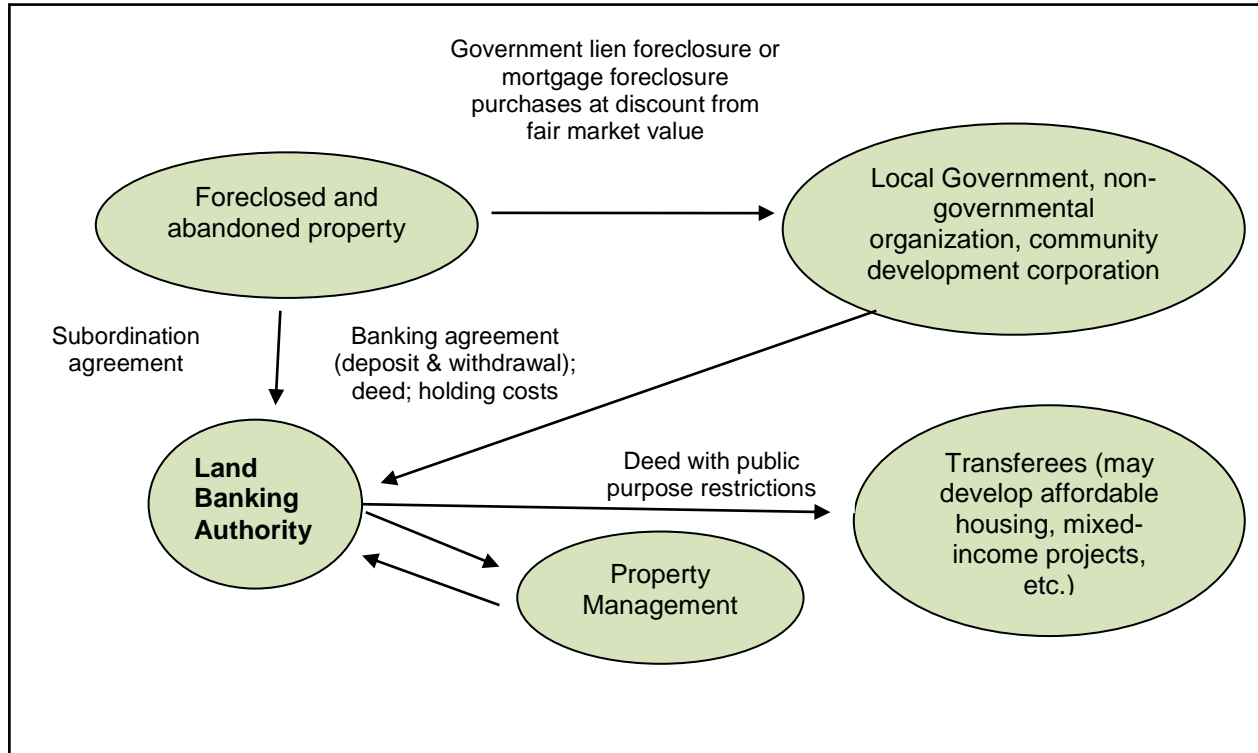
Land banks are an alternative to these tedious and often outmoded liquidation-based systems. They put properties back in the hands of responsible homeowners. They give communities the opportunity to repurpose abandoned properties in a manner consistent with the communities' values and needs, such as by demolishing unsalvageable homes and creating open green space or a community garden. Land banks restore interesting buildings, or hold onto them until a new purpose can be determined.⁹ In other words, land banks treat property as *real estate*, not as a disposable commodity that no longer has a meaningful purpose.¹⁰ The following figure illustrates what a land bank is, how it works, and what it does, in summary form. The property acquisition and disposition aspects of a land bank operation are discussed in greater detail in the following sections.

⁸ [*Id.*](#) at 2.

⁹ [*Id.*](#)

¹⁰ [*Id.*](#)

Figure 1. Returning Properties to Productive Use Through Land Banking¹¹



B. The History and Evolution of Land Banking

The housing and economic crises of the past few years have had far-flung repercussions in communities across the entire United States, including a dramatic increase in the number of land banks. There are currently about 150 land banks in 23 states. Michigan is in the lead with 36.¹² The [Center for Community Progress](#), a national 501(c)(3) non-profit organization dedicated to supporting neighborhood vitality through

¹¹ Frank S. Alexander, *Blueprint for American Prosperity: Unleashing the Potential of a Metropolitan Nation*, [Land Banking as Metropolitan Policy](#) (Brookings Metropolitan Policy Program Oct. 2008), at 27.

¹² Center for Community Progress, [Frequently Asked Questions on Land Banks](#); F. Alan Shirk, [Land Banks Help Restore Abandoned Neighborhoods](#) (Sustainable City Network June 12, 2014) (referencing works by Frank S. Alexander).

land banking, had, as of mid-2014, helped more than 100 communities in 22 states initiate land bank programs.¹³ Land banking is definitely booming.

Why this recent popularity? As residential mortgage foreclosures rose to levels not experienced in the previous 75 years, some communities experienced reductions in property values of 25% or more.¹⁴ Together, the national mortgage crisis and the decline of older industrial areas created increasing numbers of vacant and abandoned properties, which gave rise to decreases in neighboring property values and property tax revenues, but increases in public safety costs, incidents of arson, local government code enforcement costs, and costs of judicial actions.¹⁵ In response to these changes, cities and counties had to formulate some kind of response, and more of these localities chose to create land banks.

Although this surge in popularity may seem to suggest that land banking is a relatively recent phenomenon, land banks are not actually new. The concept of land banking actually emerged in the 1960s, in the wake of urban sprawl and the decline and abandonment of inner-city neighborhoods.¹⁶ Initially, land banks were proposed as a type of proactive “land reserve” through which a public entity would acquire land to be held for future public use.¹⁷ Over the past half-century, however, the nature and function of land banks have evolved in response to the contagion of abandonment. Land banks

¹³ [*Id.*](#)

¹⁴ Frank S. Alexander, [Land Banks and Land Banking](#) (Center for Community Progress June 2011), at 15.

¹⁵ [*Id.*](#)

¹⁶ [*Id.*](#) at 18.

¹⁷ [*Id.*](#)

have become more *reactive* than proactive, but a shift to proactivity is likely to occur as the economy recovers and the concept of land banking further matures.¹⁸

The map below helps illustrate the proliferation of land banking in recent years. Although the Center for Community Progress was unable to ascertain the starting dates for many of the land banks, the blue “pins” show how many were started in 2013. An interactive form of the map, showing state-by-state detail, is available on the [Center for Community Progress website](#).

Figure 2. Map of Land Banks and Programs by Year Started¹⁹



As the map shows, land banks have been established mostly in the eastern half of the country, although there are multiple land banks in Kansas, and one each in Texas

¹⁸ [Id.](#)

¹⁹ [National Map of Land Banks & Land Banking Programs](#) (Center for Community Progress June 2014).

and Oregon. Philadelphia recently became the largest city in the U.S. to establish a land bank.²⁰ Even small cities can benefit from land banks, however; in 2010, a land bank was established in Lyons, Kansas (population 3,739).²¹

1. The First Contemporary Land Banks

In the last quarter of the twentieth century, St. Louis, Cleveland, Louisville, and Atlanta established what has come to be called the “first generation” of land banks.²² After the St. Louis land bank was formed in the early 1970s, Ohio passed state enabling legislation in 1976 that allowed for the creation of the Cleveland Land Bank. More than a decade later, Louisville (1989) and Atlanta (1991) created land bank authorities.²³ These early land banks shared a common focus on addressing abandoned, tax-delinquent properties and converting them to productive use.²⁴

The main problem with the early generation land banks was that they were stuck with antiquated tax foreclosure procedures that, because they were cumbersome and time-consuming, inhibited the land banks’ acquisition of properties. Although the early land banks were able to convert between 100 and 500 properties per year to productive use, that conversion represents only a fraction of the inventory of available properties,

²⁰ Jack Blumgart, [Philly’s New Land Bank: Will It Give Blighted Communities a Boost?](#), Yes! Magazine, Dec. 27, 2013.

²¹ Lyons, Kansas, [Lyons Land Bank](#).

²² See, e.g., [Countywide Land Banks Tackle Vacancy and Blight](#) (U.S. Dep’t of Housing & Urban Dev. Winter 2014); [Land Banks in Pennsylvania: A Handbook for Counties and Municipalities](#) (Right-Sized Homes, LLC Sept. 2013), at 7 *et seq.*; Frank S. Alexander, [Land Banks and Land Banking](#) (Center for Community Progress June 2011), at 18 *et seq.* The “generational” concept was popularized by Alexander.

²³ Alexander, [Land Banks and Land Banking](#), at 18.

²⁴ [Id.](#) at 19.

which was sometimes as high as 2,000.²⁵ The inadequacies of then-existing tax foreclosure laws meant that the inventory of tax-foreclosed properties, whether privately owned by investors or held by the land bank, often lacked marketable title.²⁶ There was much room for improvement—hence, the next wave of land banks emerged.

2. The Successors—Genesee County, Michigan (2002) and Cuyahoga County, Ohio (2008)

The second so-called “generation” of land banks emerged on the platform of legislative initiatives and changing socio-economic conditions. This group of successors to the original land banks is marked by the formation of the Genesee County Land Bank in Flint, Michigan in 2002, as well as major legislative reforms in Michigan in 1999 and 2003, and in Ohio in 2008 and 2010.²⁷ What distinguishes Michigan most primarily is its direct and systemic reform of its property tax foreclosure laws in 1999.²⁸ The new law achieved several very important objectives, by:

- Stopping the sale of tax liens or certificates to private third parties;
- Creating a judicial tax foreclosure process with notice to all interested parties;
- Creating a bulk process by which a county’s entire inventory of tax-delinquent properties could be joined in a single foreclosure proceeding and resolved in a single hearing; and

²⁵ [*Id.*](#) at 18.

²⁶ [*Id.*](#) at 19.

²⁷ [*Id.*](#) at 20.

²⁸ [*Id.*](#) (citing 1893 Mich. Publ. Act 206, as amended by 1999 Mich. Publ. Act 123; [Mich. Comp. Laws § 211.1](#) *et seq.*).

- Creating a mechanism for local governments to acquire the entire inventory of tax-delinquent properties not redeemed by owners and other interested parties.²⁹

The first land bank formed after the enactment of the Michigan legislation was in Genesee County, in collaboration with the city of Flint and Flint Township. But as the land bank faced the prospect of quickly becoming the single largest landowner in the county, it still had little more power and authority than was exercisable by first-generation land banks. In 2004, Michigan passed the Land Bank Fast Track Authority Act, which truly ushered in the second generation of land banks.³⁰ Land banks in Michigan must now be created by intergovernmental collaboration between counties

Impact of Land Banks in Michigan's Postindustrial Midsized Cities

Michigan has been a leader in land bank development, both legislatively and in practice. Michigan's leadership role is due in part to the state's economic realities. The auto industry's decline starting in the 1970s hurt Michigan's cities, with Detroit as the quintessential example. Mid-sized postindustrial cities in Michigan also experienced decline due to deindustrialization. Since the 2000s, land banks have been seen as a way to deal with some issues in Lansing, Flint, Battle Creek, Saginaw, and other cities. These municipalities face vacant residential properties, contaminated industrial land, and related blight and social problems.

Recent research on the Ingham County Land Bank, which supports Lansing, shows that land banks are a key component of economic revitalization in a postindustrial city. Michigan State University's Land Policy Institute found that demolition, redevelopment, and sales projects helped the land bank bring in \$500 million in tax revenue over a six-year period. Home sales increased by 5.2% in the same timeframe. Further, the research suggests that the land bank has an economic impact beyond the communities that it serves. The land bank had a \$56 million impact in the region overall, and ushered in 400 new jobs through development investments.[†]

One key caveat is that Lansing experienced the least population loss of similar Michigan cities. This fact meant that less investment was needed than in Flint or Saginaw, which saw larger decline and abandonment. Current work in these cities focuses on stabilization, largely via demolition. In 2013, the Saginaw County Land Bank received \$11.2 million in federal funds to demolish 950 blighted homes; the Genesee County Land Bank received \$20.1 million to demolish up to 1,700 properties. Many urban planners believe that only through this process can communities really begin new development endeavors.

[†] Tyler Borowy, Mary Beth Graebert, Benjamin Calnin, & Brianna Acker, *Economic Impacts of the Ingham County Land Bank (2006-2012)* (Mich. State Univ. Land Policy Inst. 2013), available at http://www.landpolicy.msu.edu/modules.php?name=News&op=viewlive&sp_id=173.

²⁹ [*Id.*](#)

³⁰ [*Id.*](#) (citing 2003 Mich. Pub. Act 258, [Mich. Comp. Laws § 124.751](#)).

and the Michigan Land Bank Fast Track Authority, which functions as the state land bank and exercises supervisory oversight over all locally created land banks.³¹

Michigan land banks now have greater powers under the new statutes, as well as multiple sources of financing due to the legislative changes. The acquired properties have insurable and marketable title, and are ready for reuse and redevelopment. These advantages spurred major legislative reform in Ohio as well. In 2008, the Ohio General Assembly built on the lessons learned from the earlier programs, both in that state and elsewhere, and overhauled its tax foreclosure system. The systemic changes in that process, and opening the door to various sources of financing, were the key features of the Ohio legislation.³²

With some of the highest vacancy rates in the country, Cuyahoga County, Ohio and the city of Cleveland were instrumental in pressing for a range of reforms that transformed the first-generation Cleveland Land Bank into a more effective entity. The new legislation enabled the establishment of the [Cuyahoga County Land Reutilization Corporation](#) (also known as the Cuyahoga County Land Bank) and authorized land banks in the state to be not mere custodians of rejected properties, but rather proactive partners in their management and transformation.³³

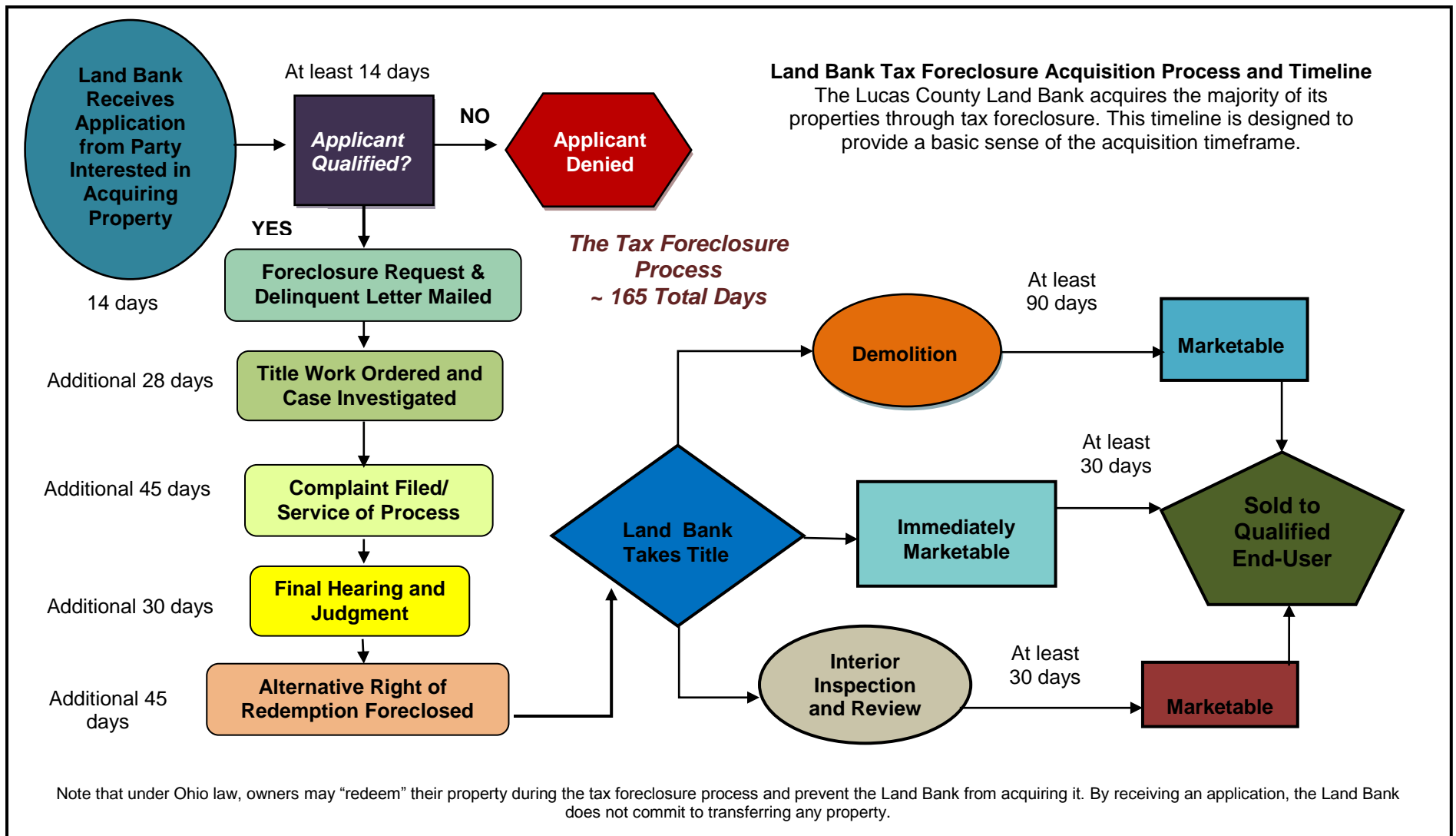
Even with the legislative changes and improvements in tax foreclosure laws, the process is still a lengthy one, and there is still room for improvement. The flowchart in Figure 3 below shows the “expedited” process implemented in one Ohio county.

³¹ [Id.](#)

³² [Id.](#) at 21 (citing Ohio H.B. 313, 128th Leg. Gen. Assem.). Ohio's tax foreclosure statutes are codified at [Ohio Rev. Stat. § 5721.01 et seq.](#)

³³ [Id.](#)

Figure 3. Lucas County, Ohio Land Bank Acquisition Process³⁴



³⁴ Source: [Lucas County Land Reutilization Corporation](#).

3. The Newest Land Banks—New York (2011), Georgia (2012), and Pennsylvania (2012)

The current wave of land banks continues to evolve.³⁵ It differs from the prior group more in form than in substance. The legislation enabling the current group of land banks has the distinct advantage of building on the knowledge and experiences of its predecessors. The newest set of land banks originated in 2010, when Pennsylvania and New York introduced parallel enabling legislation; both states reintroduced the legislation in 2011, and Georgia filed enabling legislation that year as well. The new statutes are simpler to interpret and apply, made possible by what these states and legislatures learned from the first 40 years of land banking experience.³⁶

“The land bank will be a key tool in combating crime and improving the quality of life in neighborhoods, while creating new opportunities for business investment within the City of Buffalo.”

- Mayor Byron Brown

After New York’s Land Bank Act passed in 2011, Erie County Executive Mark C. Poloncarz was joined by representatives from Buffalo, Lackawanna, and Tonawanda to announce an inter-municipal agreement and joint application seeking to be one of the first communities in New York State to create a land bank.³⁷ “I look forward to a well-coordinated strategy between the municipalities of Erie County including the cities of Buffalo, Lackawanna and Tonawanda that effectively deals with the overabundance of vacant, abandoned and tax delinquent properties in the region,” said Buffalo Mayor Byron W. Brown. “The land bank will be a key tool in combating crime and improving the

³⁵ [*Id.*](#) at 22.

³⁶ [*Id.*](#) See also [N.Y. Not-for-Profit Corp. Law art. 16](#); Ga. Code § 48-4-100 *et seq.*; and [Pa. Cons. Stat. tit. 68, ch. 21](#).

³⁷ [Joint Land Banking Application Submitted](#) (Buffalo Rising Apr. 2, 2012).

quality of life in neighborhoods, while creating new opportunities for business investment within the City of Buffalo.”³⁸ “Decreased property values, blight, and crime are costly to local governments and result in a cycle of disinvestment for neighborhoods across Erie County,” added Poloncarz.

The new land bank, called the [Buffalo Erie Niagara Land Improvement Corporation](#), will create a coordinated structure to handle vacant properties, simplifying the process for municipalities to dispose of tax-delinquent, vacant, abandoned, and foreclosed properties. The land bank can obtain title to tax delinquent parcels and rehabilitate, or if necessary demolish, structures and then put the properties back to productive use.³⁹

Erie County had good reason to be on the forefront of land bank activity in New York. The Erie County Department of Real Property Tax Services determined that there were nearly 75,000 delinquent tax liens within the County in 2012, representing \$53,529,325 in taxes owed. While the City of Buffalo is often the focal point of the issue of abandoned properties, it is not the only community in the County that is suffering from blight and disinvestment in real property. Although approximately 64% of the tax delinquent properties (46,883 out of 73,360) were located in Buffalo when records were reviewed, that 64% of the properties represented only 11% of the assessed value of all liens (which, in 2012, totaled approximately \$6 million).⁴⁰

³⁸ [Id.](#)

³⁹ [Id.](#)

⁴⁰ [Id.](#)

Erie County was the first to apply, but it is not the only new land bank in New York. The new law first allowed for the development of ten land banks, all of which must be approved by the state land bank authority, [Empire State Development](#). [Newburgh](#), [Rochester](#), [Suffolk County](#), and [Syracuse](#), to name a few, have answered that call. Recently, ten more land banks were authorized.⁴¹

4. The Federal Role

While land banks are mostly a local phenomenon, some land bank action occurs at the federal level.⁴² In July 2008, Congress passed the [Housing and Economic Recovery Act of 2008](#), the first federal legislation to recognize land banking.⁴³ Section 2301 of the Act, entitled [Emergency Assistance for the Redevelopment of Abandoned and Foreclosed Homes](#), appropriated \$4 billion for land banks. The [Neighborhood Stabilization Program](#) that grew out of the Act purchases and rehabilitates abandoned and foreclosed properties to sell, rent, or redevelop, and focuses on providing housing for low- and moderate-income individuals and families. The 2009 [American Recovery and Reinvestment Act](#) allocated another \$2 billion to land banks and provided that funds could also be used for land bank operating (as well as acquisition) costs.⁴⁴

⁴¹ Luke Telander, Community Progress Blog, [Ten New Land Banks Authorized in New York](#) (Center for Community Progress June 11, 2014).

⁴² Note that the discussion here does not relate to federal land banks that were in fact banks in the traditional sense of the word. [Federal Land Banks](#) were agricultural lenders established by the federal government. In the late 1980s, all Federal Land Banks merged with Federal Intermediate Credit Banks to form Farm Credit Banks.

⁴³ Alexander, [Land Banks and Land Banking](#), at 22 (citing 2008 Pub. L. 110-289, 122 Stat. 2654 (2008)); Alexander, [Neighborhood Stabilization & Land Banking](#), at 3).

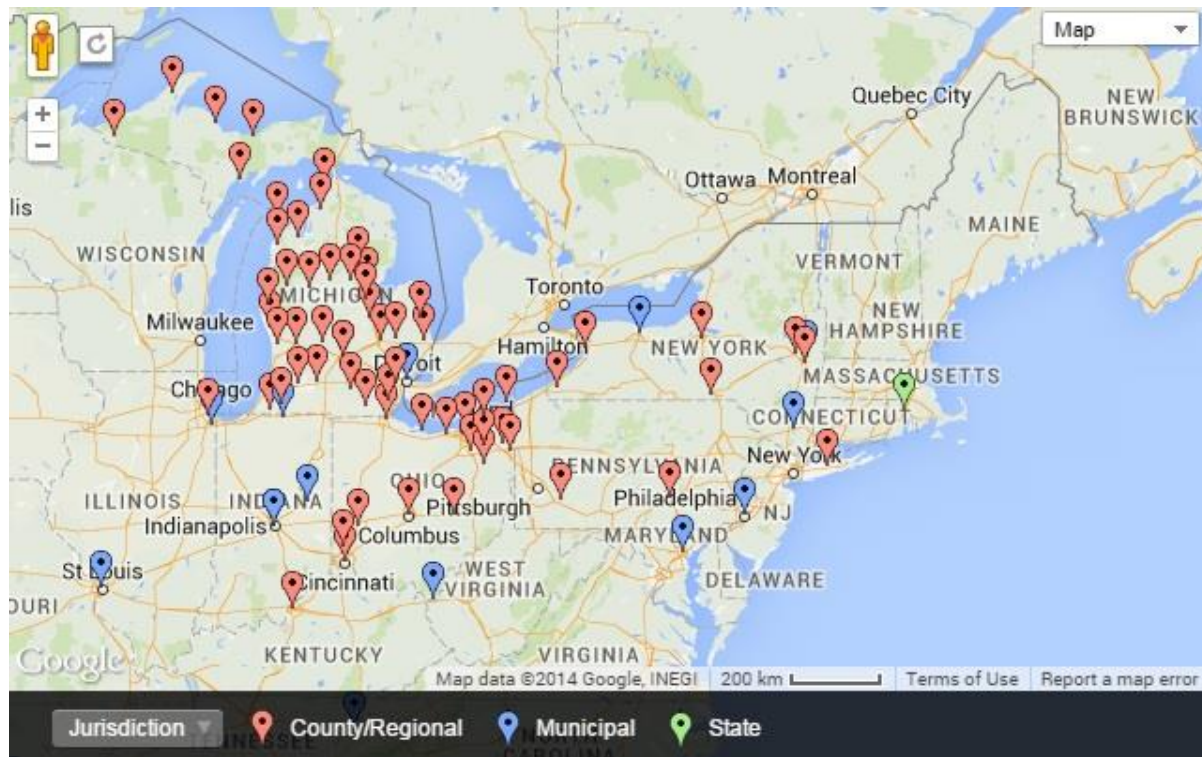
⁴⁴ [Id.](#) at 23 (citing Pub. L. No. 111-5, 123 Stat. 218 (2009)).

C. Creating a Land Bank

1. Land Banks Are Essentially Local Creatures

Although the laws that allow for the formation of land banks are usually state statutes, most land banks are started at the local rather than state level, as shown by the following maps from the [Center for Community Progress](#). The number of salmon and blue pins shows that local land banks far outnumber statewide programs, and that county/regional land banks outnumber municipal land banks by a large margin as well.

Figure 4. Map of National Land Bank Programs by Jurisdiction (Northeast)⁴⁵



⁴⁵ Figures 4-6, [National Map of Land Banks & Land Banking Programs](#) (Center for Community Progress June 2014) (interactive map showing greater detail).

Figure 5. Map of National Land Bank Programs by Jurisdiction (Southeast)

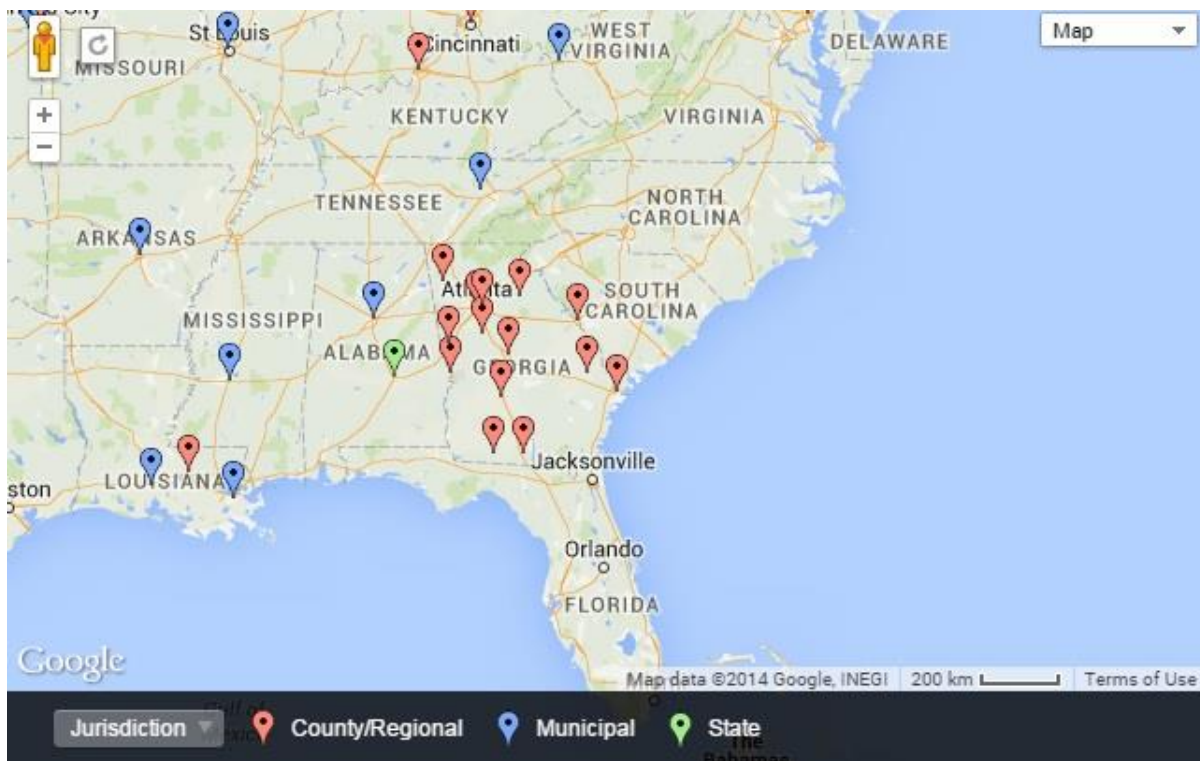
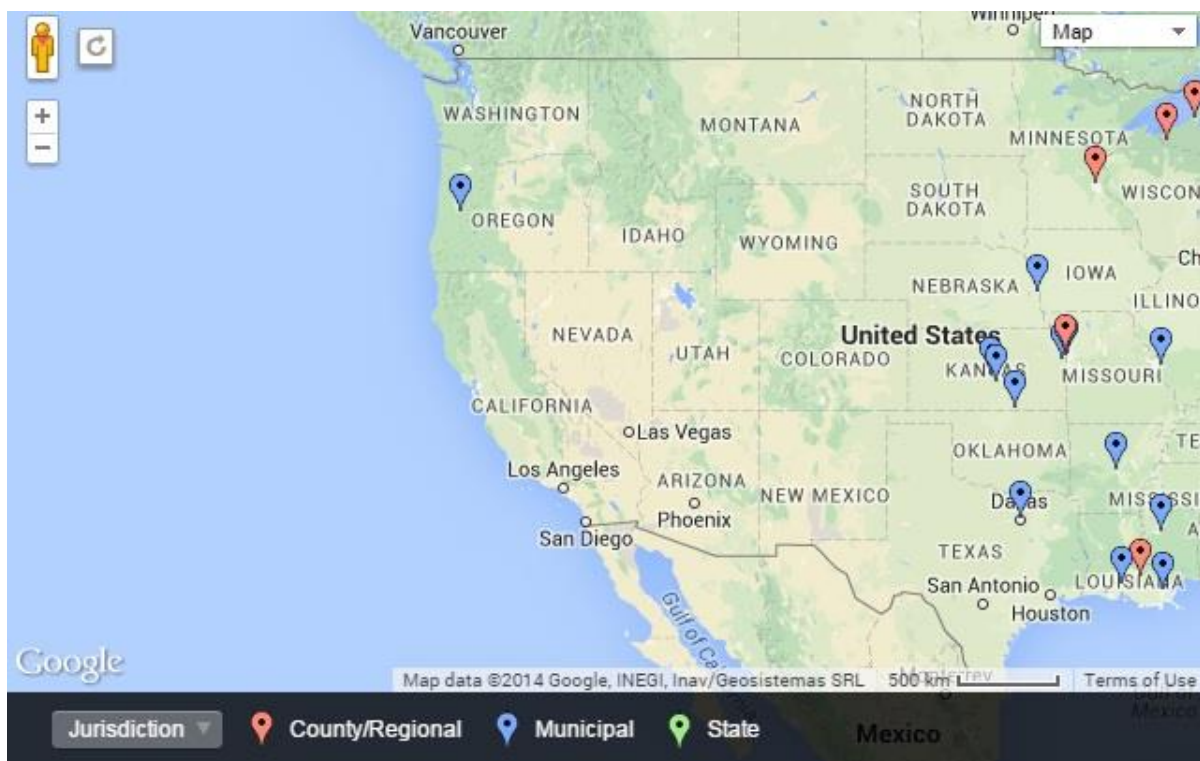
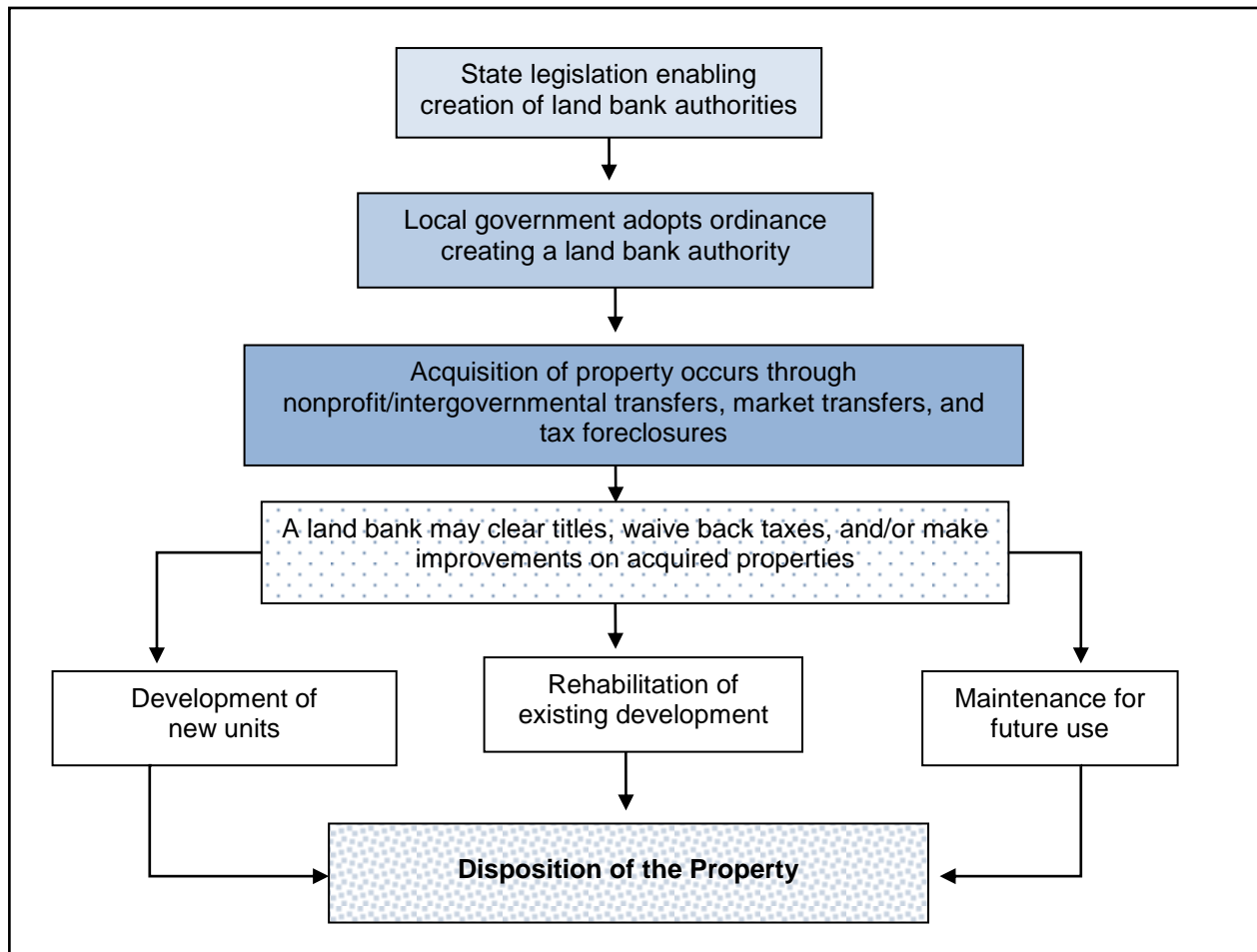


Figure 6. Map of National Land Bank Programs by Jurisdiction (West)



Generally speaking, once state enabling legislation is passed, local governmental units must act to create a land bank within their jurisdiction. The figure below illustrates this process and what happens thereafter, from land bank creation to property disposition.

Figure 7. The Land Bank Process⁴⁶



2. Potential Funding Sources

Land banks usually have access to a variety of sources of income to fund their acquisition and operating costs, including grants, revenues from land sales, tax

⁴⁶ U.S. Dep't of Housing & Urban Dev., Office of Policy Dev. & Research, [Revitalizing Foreclosed Properties with Land Banks](#) (Sage Computing Aug. 2009), at 4.

collections, developer fees, and rental income.⁴⁷ When a land bank is in its formative stages, foundation grants may cover start-up costs and allow a land bank to build up resources that will potentially generate income to cover future operating costs. Federal grants funded through [HUD's Neighborhood Stabilization Program](#) may also provide acquisition, maintenance, and operating funds for land banks.⁴⁸

Land sale revenues are generated when the land bank authority sells property for more than it initially cost the land bank. Because land banks are able to acquire property at below-market value and accept donations of land, they are often able to turn a profit when selling off the property, and that profit can go back into the operating fund or be used to acquire more property.⁴⁹

3. Governance

Land banks can be independent public legal corporations or non-profit entities. The form and structure of land banks are matters generally determined by state land bank enabling legislation and state statutes on intergovernmental cooperation.⁵⁰ Enabling legislation generally gives wide latitude to local governments to determine land bank specifics, like budgets and staffing. In most cases, some form of intergovernmental agreement or resolution is also necessary. The agreement or resolution should outline any key details that are not set out in the statute.⁵¹ In addition, if the land bank is a public or non-profit corporation, articles of incorporation will be

⁴⁷ Kildee & Hovey, [Land Banking 101: What Is a Land Bank?](#), at 6.

⁴⁸ [Id.](#) at 6.

⁴⁹ [Id.](#)

⁵⁰ Alexander, [Land Banks and Land Banking](#), at 54.

⁵¹ [Id.](#) at 56.

required. Once the members of the board of directors are identified, bylaws detailing the land bank's governance and structure must be adopted.⁵²

Members of the board, who serve without compensation, may be private citizens, elected officials, or local government employees. It is commonly required that the board members reside in one of the local governments that created the land bank. An intergovernmental agreement establishing a land bank can provide that the staff consist of other local government departments, or it can expressly authorize the land bank to hire its own director and employees.⁵³ If hiring its own employees, the land bank should also adopt a code of ethics.⁵⁴

Land Bank Programs At A Glance

After acquiring tax foreclosed or abandoned properties, land banks have much to do. They have the power to maintain, demolish, distribute, and repurpose vacant lots, but how? The majority of land bank programs fall into three main categories: (1) Demolition and Blight Abatement; (2) Sales and Rental; and (3) Collaborations.

Often, properties that come into the hands of land banks are beyond repair due to neglect and vacancy. These homes are boarded up and set for demolition. Through various funding streams, including Federal "Hardest Hit" Grants, land banks safely remove derelict structures. This process can aid local economic development by employing local contractors for demolition jobs. Land banks also mow and maintain vacant properties.

Viable homes, lots, and commercial properties are listed for development or purchase. Many land banks dedicate some funds to renovations to make properties more attractive. In many areas, land bank homes provide affordable housing options. Neighbors may elect to purchase or lease vacant lots to expand their yards. These lots may be sold at low prices to thin land bank inventory and increase the property tax base.

Land banks may collaborate with community groups to maintain or improve areas surrounding vacant properties. Some land banks offer "greening" programs that provide grant dollars for vacant property maintenance. These activities improve the look of an area and help alleviate the land bank's maintenance burden. Some land banks even support the creation of small parks and community gardens.

⁵² [*Id.*](#)

⁵³ Alexander's 2005 work, [*Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks*](#) (Local Initiatives Support Corp. Apr. 2005) includes sample intergovernmental agreements in Appendix C.

⁵⁴ Alexander, [*Land Banks and Land Banking*](#), at 56.

4. Administrative Policies

While the public policy goals are the broad focus of a land bank's efforts, the administrative policies are the nuts and bolts of land bank operation. Administrative policies should address such issues as:

- Which properties are eligible for acquisition by the land bank? (E.g., tax-delinquent properties, foreclosed properties, properties that have been vacant/abandoned for a requisite period of time, etc.)
- Which properties are subject to disposition by the land bank? (E.g., single-family homes, multi-family dwellings, commercial properties, etc.)
- To whom can land bank properties be transferred? (E.g., developers, owner-occupants, community organizations, etc.)
- On what factors will sale prices be based? (E.g., market value, tax recoupment, code violation costs, maintenance costs, etc.)
- What events will trigger a right of the land bank to reacquire the property? (E.g., developer's failure to complete promised project within requisite period of time.)⁵⁵

⁵⁵ [*Id.*](#) at ch. 10. [Sample Administrative Policies and Procedures](#) are available in the [Land Banks and Land Banking](#) publication at page 106.

D. What Can a Land Bank Do?

1. Property Acquisition

As Figure 7 (page 19) shows, after a land bank is formed, its functions extend from acquiring to disposing of the land that is “banked.” Land banks engage in “asset banking” by acquiring inventories of real property. These properties come primarily from five sources:

- Tax delinquencies and tax foreclosures;
- Residential real estate foreclosures;
- Foreclosures of government liens arising from housing and building code violations;
- Direct market purchases; and
- Third-party “deposits” or donations of properties to be held pending redevelopment.⁵⁶

Although early proposals for land banks contemplated the acquisition of large parcels through the process of eminent domain,⁵⁷ in the late 1960s and early 1970s questions still existed about the scope of federal constitutional provisions that prohibit the taking of private property for public use without just compensation.⁵⁸ It was unclear whether the Constitution would permit the taking of private property for the sole purpose

⁵⁶ Frank S. Alexander, [Neighborhood Stabilization and Land Banking](#) (Fed. Reserve Bank of Boston Summer 2009), at 5.

⁵⁷ Eminent domain is the power of the government to take private property for a public purpose, even against the property owner’s wishes. The Fifth Amendment allows the government to exercise this power only if the taking is for a public use and the owner is justly compensated (i.e., paid fair market value). A public use can be anything sanctioned by a federal or state legislative body, including roads, parks, reservoirs, schools, and hospitals. See Nolo’s Plain-English Law Dictionary, [Eminent Domain](#).

⁵⁸ Frank S. Alexander, [Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks](#) (Local Initiatives Support Corp. Apr. 2005), at 26.

of conveying it to another. Although more recent decisions from the Supreme Court suggest that the federal Constitution would not be a barrier to a land bank's use of the power of eminent domain,⁵⁹ questions continue to exist with regard to state constitutions, which may be more restrictive in their application of eminent domain to properties acquired for more conventional forms of public uses and facilities.⁶⁰

As land banks have developed over the last few decades, their focus has narrowed: instead of being proactive land reserves, they are dedicated to returning often individually acquired properties to productive use. Those who argue in favor of giving land banks the power of eminent domain often do so with an eye toward enabling their assembly of larger tracts of land for future development, which is no longer a primary goal.⁶¹

It is important to note that state enabling laws do not grant the power of eminent domain to land banks; in fact, Michigan's statute expressly precludes it.⁶² Under state law, the power of eminent domain will not be implied. Those who oppose the exercise of eminent domain by land banks argue that state constitutional law places substantive limits on the use of this power for redevelopment, and that local governments should be the ones to exercise such power since they are directly accountable to the electorate. Of course, the local government can acquire the property by eminent domain and then convey it to the land bank. But the exercise of eminent domain by a land bank itself is

⁵⁹ E.g., [Hawaii Housing Auth. v. Midkiff](#), 467 U.S. 229 (1984).

⁶⁰ Alexander, [Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks](#), at 26.

⁶¹ [Id.](#) at 27.

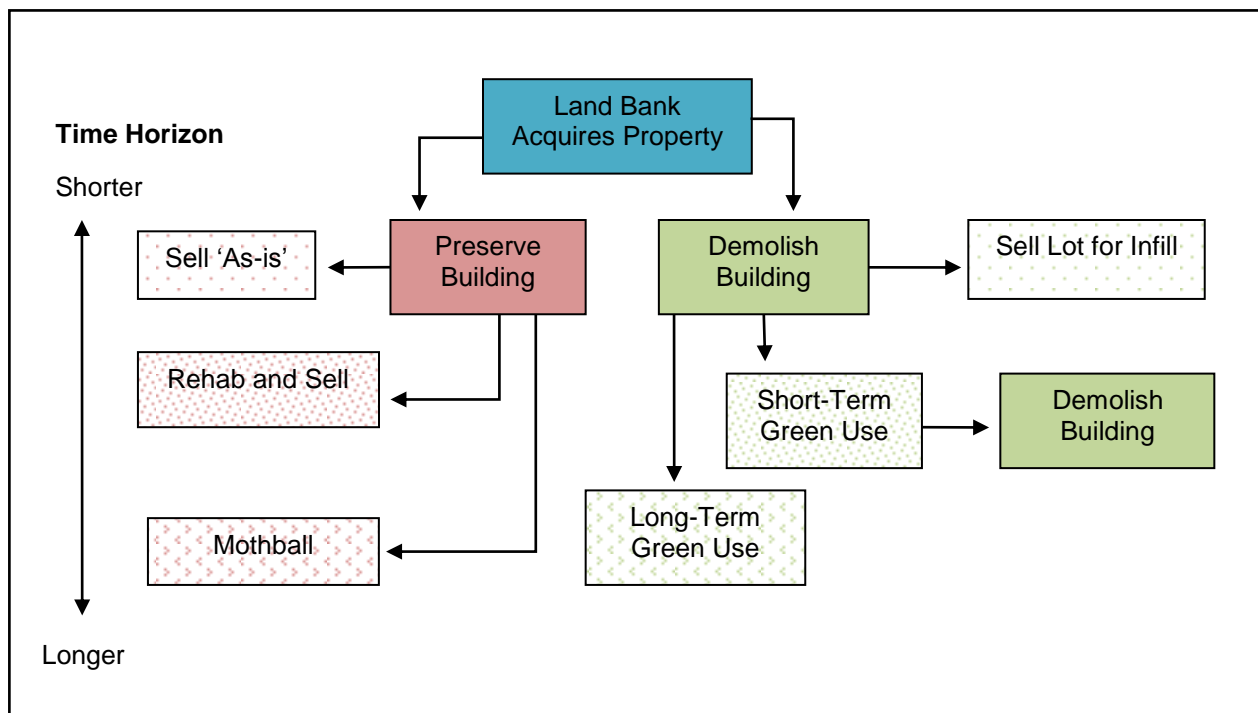
⁶² [Id.](#) at 27 & n. 43 (citing [Mich. Comp. Laws § 124.754\(8\)](#)).

often referred to as “spot condemnation,” which generates strong public and political opposition.⁶³

2. Property Disposition

Once a land bank acquires property, it can sell or convey it, demolish it, maintain it, rent it, rehabilitate it, or assemble it for development.⁶⁴ The figure below illustrates these options and the variables involved in the decision-making process.

Figure 8. Property Reuse Decision Tree⁶⁵



The nature of the particular property at issue will determine how the land bank disposes of it. For instance, if it is determined—based on an assessment of its structure,

⁶³ [Id.](#) at 27.

⁶⁴ Kildee & Hovey, [Land Banking 101: What Is a Land Bank?](#), at 5.

⁶⁵ U.S. Dep’t of Housing & Urban Dev. Neighborhood Stabilization Program, NSP Toolkit, [Overview of Land Bank Decisions and Tools](#), at 3.

electrical, plumbing, and other core features—that a property can be rehabilitated, bids may be requested and repairs undertaken, so that the property can be sold to a private homeowner.⁶⁶ A land bank may choose to hold onto property for redevelopment because it is contiguous to other land bank-owned property, or it is in an area where other development is occurring. Or a land bank may designate a property for demolition if it presents an immediate danger to the community, or is dilapidated or obsolete.⁶⁷

3. Land Banks as Development Partners

Land banks generally do not serve as the developers of properties in their inventory. Instead, they hold onto the property for which there is no demand, or convey the property to an eligible transferee for use in accordance with the land bank's priorities. When the land bank acquires property that can be rehabilitated and transferred in a short period of time, it may seem to make sense for the land bank itself to function as a contractor or developer, but land banks are not the same as redevelopment authorities. Industrial and urban redevelopment authorities usually target specific geographic areas, and have the power to issue tax-exempt financing and the power of eminent domain. Land bank properties are often scattered across geographic areas in random patterns, and they usually lack these powers. Moreover, most land banks do not have in-house construction or rehabilitation expertise.⁶⁸

But land banks are not completely out of the redevelopment picture. When the economic conditions of a particular community leave one or more significant parcels of land vacant and abandoned, and the local government lacks other tools to facilitate

⁶⁶ Cuyahoga Land Bank, [Frequently Asked Questions](#).

⁶⁷ Genesee County Land Bank, [Frequently Asked Questions](#).

⁶⁸ Alexander, [Land Banks and Land Banking](#), at 38.

redevelopment, a land bank can step into the breach and serve as a catalyst for the productive reuse of the land. A land bank can transfer property to a specialized authority, such as a downtown redevelopment authority or an urban development authority, and the entities can combine their expertise to achieve mutual redevelopment goals. In other words, land banks can serve a catalytic role in stimulating the redevelopment of a particular tract of land based on their ability to acquire and hold vacant property. Also, to the extent that a land bank has the authority to borrow funds and secure its interests by taking back subordinate construction financing, or long-term debt or equity positions, it can bring a strong set of partnership tools to the redevelopment table. A land bank has key potential to contribute to a redevelopment joint venture or limited partnership.⁶⁹

E. The Inventory

Over the last half-century, many cities across the nation have experienced an increase in the prevalence of vacant, abandoned, tax-delinquent, and foreclosed properties. *Vacancy* is more common in commercial areas, whereas *abandonment* generally suggests that the owner has stopped investing any resources in the property, although it may still be occupied. Properties that are vacant or abandoned are often tax-delinquent. The lengthy period of time required by antiquated property tax foreclosure systems enables property owners to “milk the equity” in their properties while neglecting their maintenance, thereby exacerbating the problems associated with vacancy.⁷⁰

⁶⁹ [*Id.*](#) at 38-39.

⁷⁰ [*Id.*](#) at 14.

According to the U.S. Census Bureau, there are about 14 million vacant housing units year-round in the United States, many of which are abandoned and tax-delinquent, so the inventory for land banks is plentiful.⁷¹ Table 1 below shows which major metropolitan areas have recently experienced the highest vacancy rates.

Table 1. Highest Vacancy Rates in 75 Largest Metropolitan Areas (2012)⁷²

#	Metropolitan Area	Vacancy Rate (%)	Vacant Units
1.	New Orleans-Metairie-Kenner, LA	12.6	68,181
2.	Jacksonville, FL	12.1	72,735
3.	Las Vegas-Paradise, NV	11.8	100,005
4.	Detroit-Warren-Livonia, MI	11.7	220,931
5.	Birmingham-Hoover, AL	11.5	57,874
6.	Memphis, TN-MS-AR	11.5	63,692
7.	Cleveland-Elyria-Mentor, OH	11.4	108,558
8.	Dayton, OH	10.9	42,063
9.	Columbia, SC	10.8	36,358
10.	Atlanta-Sandy Springs-Marietta, GA	10.7	232,667
11.	Orlando-Kissimmee-Sanford, FL	10.6	100,412
12.	Indianapolis-Carmel, IN	10.4	79,771
13.	Oklahoma City, OK	10.4	56,484
14.	Tampa-St. Petersburg-Clearwater, FL	10.3	139,840
15.	Albany-Schenectady-Troy, NY	10.3	40,524
16.	Toledo, OH	10.1	30,426
17.	Houston-Sugar Land-Baytown, TX	10.0	235,299
18.	Tulsa, OK	9.9	41,156
19.	Akron, OH	9.8	30,683
20.	Cincinnati-Middletown, OH-KY-IN	9.8	89,880
21.	Greensboro-High Point, NC	9.6	31,214
22.	St. Louis, MO-IL	9.6	118,525
23.	Richmond, VA	9.6	51,088
24.	Columbus, OH	9.4	73,357
25.	Phoenix-Mesa-Glendale, AZ	9.4	170,883

While land banks are generally set up to deal with vacant tax-foreclosed or tax-forfeited property, there has also been some interest in using them to acquire and resell

⁷¹ Shirk, [Land Banks Help Restore Abandoned Neighborhoods](#).

⁷² U.S. Dep't of Housing & Urban Dev., Evidence Matters, [Vacant and Abandoned Properties: Turning Liabilities Into Assets](#) (Winter 2014). Source: United States Census Bureau 2012, American Community Survey 1-Year Estimates. **Note:** Vacant units do not include seasonal, recreational, or occasional uses.

property owned by a lender after a mortgage foreclosure.⁷³ Authorizing land banks to purchase lender-owned properties for redevelopment can help stabilize neighborhoods that are still feeling the lingering effects of the foreclosure epidemic.⁷⁴ Land banks, unlike private investors, will focus on the property best suited to the purpose of redevelopment, and can target their purchases with an eye toward community revitalization. With an estimated [430,000 foreclosed properties](#) owned by financial institutions, there is no shortage of inventory to be targeted.⁷⁵

F. Critical Elements for Success

The plenitude of available properties is not enough to ensure a successful land bank initiative. Four principal elements have been identified to help a land bank succeed.⁷⁶ These include:

1. ***Connecting the land bank to the tax collection and foreclosure system.*** Property owners typically do not pay taxes on the property they abandoned, which means that the local taxing authority may have a lien on the property that is superior to other claims against it. The effective use of the government's superior tax lien is a primary mechanism for acquiring properties for the land bank. Most tax systems allow tax lien investors to

⁷³ U.S. Dep't of Housing & Urban Dev., [Revitalizing Foreclosed Properties with Land Banks](#).

⁷⁴ Thomas J. Fitzpatrick IV, [How Modern Land Banking Can Be Used to Solve REO Acquisition Problems](#) (Fed. Reserve Bank of Cleveland).

⁷⁵ Sam Khater, [REO Inventory Rising Once Again](#) (Core Logic Insights Blog May 14, 2014).

⁷⁶ These four critical elements for land bank success are discussed in the Center for Community Progress Land Bank Toolkit found on HUD's website, <https://www.hudexchange.info/resources/documents/LandBankingBasics.pdf>.

capture the profits that can be earned through penalties and interest, or from the equity derived through the sale of more valuable foreclosure properties. A land bank captures that revenue and uses it to manage the properties held by the land bank. Although the owner still loses the property, any earnings derived from the collection process end up in the hands of the community, not out-of-state speculators.

2. ***Scaling the land bank at the metropolitan level, or around a diverse real estate market.*** Land banks are most effective when they are not limited to the worst of the foreclosed or abandoned properties. Although some believe that all foreclosed properties are “junk” properties, this is a common fallacy of tax foreclosures. While much tax-foreclosed property falls into that category, some properties actually have market value—even, in a small percentage of cases, significant value. If these more valuable properties are conveyed by a land bank to private owners, revenues are generated to manage and improve the more distressed properties. The Genesee County Land Bank, for instance, generates as much as \$1 million per year in land sales, which not only recovers the uncollected taxes on those properties, but also funds a hefty property maintenance program.
3. ***Ensuring the land bank is policy driven, and that policies and transactions are transparent.*** The public is often suspicious when the government takes a role in the real estate market. In the land bank situation, of course, the government already owns the property through tax

foreclosure. Even so, a land bank must operate fairly and predictably in order to build public confidence. Important policies, which should be spelled out for the public, include to whom properties may be sold or transferred and for what purposes, and the terms and pricing of transfers.

4. ***Getting the community involved.*** Land bank properties have neighbors—sometimes thousands of them, throughout the community. The most successful land banks involve neighbors in formulating the policies and practices that affect the neighborhood. Public buy-in for potentially controversial decisions is more likely when neighbors have a formal voice in the decision-making process. Through neighborhood meetings and community advisory councils, land banks are able to proactively gather public input and reduce the chance of after-the-fact public disapproval.

G. The Challenges

Communities can face a number of obstacles when creating land banks and implementing land bank policies. As noted above, the process of acquiring properties can be lengthy and cumbersome. Tax foreclosure proceedings vary from state to state and may require the involvement of several jurisdictions in order to obtain clear title. Clear title is essential to effectively redeveloping foreclosed properties.⁷⁷

In addition, some municipalities lack experience in coordinating the efforts of key stakeholders. Even when municipalities may have the capacity to administer a land bank, intergovernmental dichotomies can inhibit regional goals. To minimize this

⁷⁷ U.S. Dep't of Housing & Urban Dev., [Revitalizing Foreclosed Properties with Land Banks](#), at 6.

challenge, state legislation should provide statutory authority for interlocal agreements.⁷⁸

Financing can also pose a challenge. Acquiring, renovating, and disposing of land bank properties can be costly. Proper funding mechanisms help ensure that foreclosures are not acquired by speculators, but are instead put to productive use. Operational land banks should generate revenues through sales. State legislation should grant municipalities the authority to develop funding mechanisms that suit their individual needs.⁷⁹

H. Land Bank Myths

Land banking is not without its detractors. Some stakeholders have concerns about land banks, but many of these issues can be addressed through careful legislation. Some common sources of concern, as well as ways to address them, include:

1. ***Land banks will erode local autonomy and control.*** In some cases, a state enabling statute might allow for the creation of county land banks that will acquire property within their municipalities. In many cases this makes sense, because property abandonment and vacancy is not just an inner-city problem. Creating an entity that can take a countywide approach to the issue may be beneficial. Statutes should be carefully drafted, however, to ensure that property transfers are in accord with the local governments' goals and vision for the future.

⁷⁸ *Id.*

⁷⁹ *Id.*

2. ***Land banks reduce investment opportunities.*** Land banks may actually increase investment opportunities by offering a clear point of contact for real estate investors, and transferring properties with clear title. It is true that some “investors” may profit less—speculators with no real ties to the community or plans for property maintenance or reuse. But land banking properties is intended to result in upward momentum in a challenged neighborhood, rather than continued negligence.
3. ***Land banks only benefit urban areas.*** Blight is contagious, not only within neighborhoods, but also across jurisdictions. Inner-ring suburbs are experiencing more abandonment. In recent years, as the mortgage crisis spread to suburban and rural areas, the authority to create land banks became increasingly relevant statewide. Using property productively and putting tax delinquent property back on the tax rolls benefits the entire state.
4. ***Land banking will result in fewer opportunities to create affordable housing.*** Each land bank develops policy priorities and programs that support the vision of the relevant locality. Preserving and creating affordable housing often is a primary goal of a land bank, but it is not the only goal. If the law allows, conveyance priorities and pricing policies can actually enable developers to acquire property for affordable housing at minimal cost.
5. ***The land bank will enter into “backroom deals” with developers.*** State land bank statutes should be drafted to ensure that land banks operate in a responsible, transparent manner. Land banks are public entities. Their boards of directors are often appointed by elected officials who have to answer to

constituents. It is the public's responsibility to hold these officials accountable if it appears that unethical activities are taking place. The board should develop policies and priorities, but no board or staff members, nor their organizations or businesses, should be involved in any land transactions. A community advisory council can add another layer of protection and involvement for communities.

6. ***Land banks are slumlords with a large inventory of unmanaged vacant properties.*** In weak markets, land banks may need to hold property for a long period of time. If they are not compelled to immediately release properties back into the market, leaders and the community have time to plan and create opportunities for the right development to occur. It is important to set reasonable public expectations and compare land management and reuse to the alternative of unmaintained properties and the impacts on neighboring residents, who may have no idea who to turn to when problems arise.⁸⁰

⁸⁰ Smart Growth America, [State Policy Toolkit: State Land Bank Enabling Legislation](#).

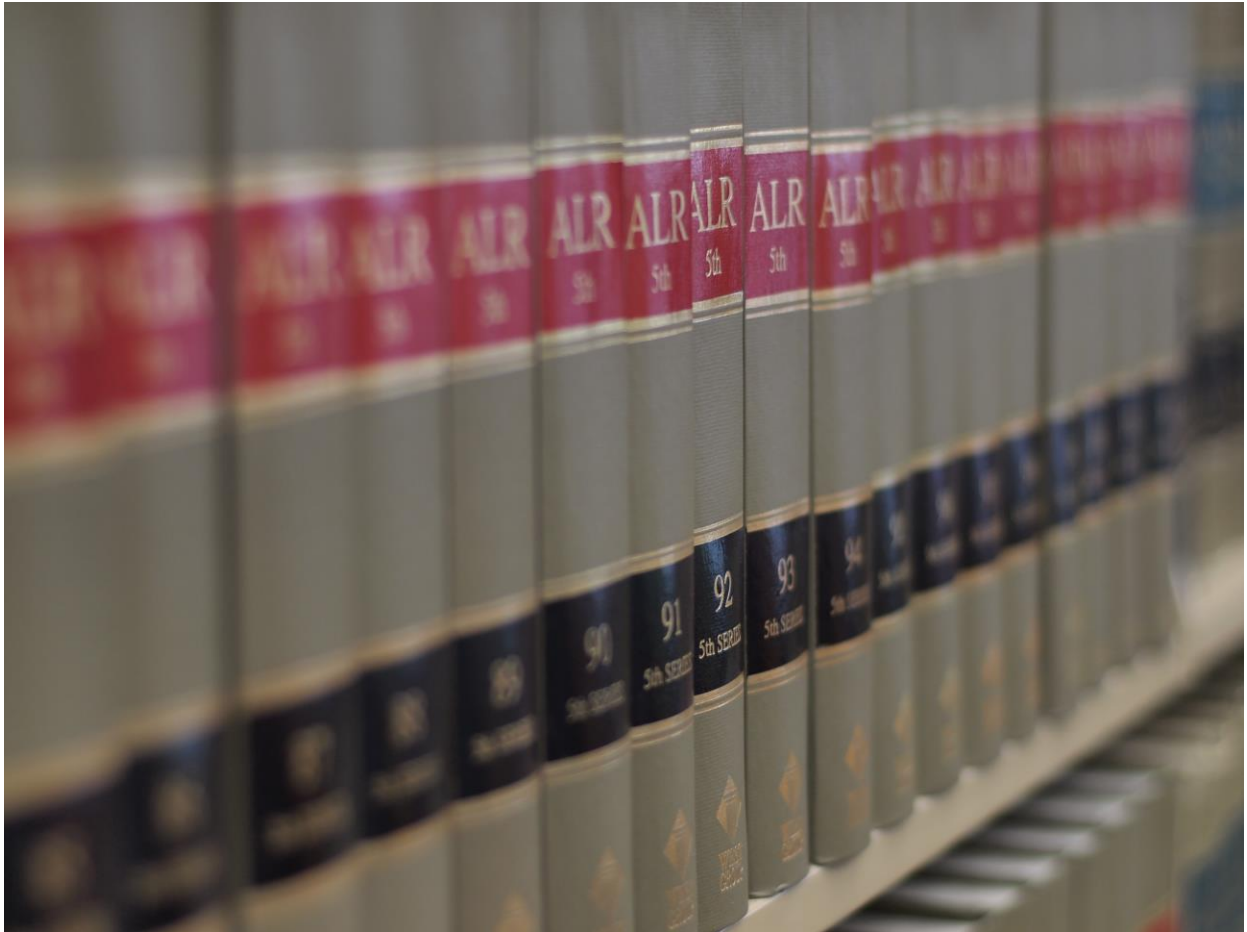
Turn that Empty Lot into a Garden: Land Banks and Urban Food Production

Food insecurity refers to an unsteady supply of nutritious and safe food. About 3 million rural residents are food insecure,[†] while estimates are higher for urban areas. This problem is amplified by the number of “food deserts”—areas without ready access to fresh, healthy, and affordable food. The USDA estimates that 23.5 million Americans live in food deserts.^{††}

A common remedy is the promotion of community gardens. Land banks can aid urban gardening and local food movements by providing vacant space for agriculture. Land banks can engage the community to support gardening initiatives. Land banks continue to collect tax dollars to support their operations, while returning the land to productive reuse. The Ingham County Land Bank offers a garden program that supports nearly 50 gardens in Lansing, Michigan. These range from backyard endeavors to larger agricultural operations.

[†] Coleman-Jensen et al., [*Household Food Security in the United States in 2012*](#) (USDA Econ. Res. Serv. 2013) at Table 2.

^{††} United State Department of Agriculture. *Agricultural Marketing*.



II. Land Bank Enabling Laws

A. The Need for Land Bank Legislation

Every state's constitution allocates legal authority between the state legislature and local governments within the state. The extent to which a local government has the authority to create a land bank is determined by the powers granted to cities by the state constitution or by the state legislature.⁸¹ Because a land bank is not a traditional form of local government, some type of state enabling legislation is usually necessary. There are, however, limited exceptions. The Genesee County Land Bank, for instance, was created prior to the enactment of statewide land bank legislation in Michigan, and was grounded on then-existing statutes authorizing intergovernmental (also called inter-local) cooperation agreements.⁸²

In the more typical situation, the legal authority for establishing a land bank comes from a specific state statute. The statute does not actually *create* the land bank (with the exception of the [Michigan Land Bank Fast Track Authority](#)), but merely allows for—or “enables”—its creation. Once the statute is enacted, a local ordinance is generally passed to create the land bank authority.⁸³ If formed as an independent (or quasi-independent) public entity, a board of directors will be appointed according to local law. It is the board that determines the land bank's policies and procedures.⁸⁴

About 70% of the land banks in existence as of mid-2014 were created pursuant to a state enabling statute that authorizes local governments within the state to create

⁸¹ Alexander, [Land Banks and Land Banking](#), at 76.

⁸² [Id.](#)

⁸³ Smart Growth America, [State Policy Toolkit: State Land Bank Enabling Legislation](#).

⁸⁴ Kildee & Hovey, [Land Banking 101: What Is a Land Bank?](#).

land banks.⁸⁵ The Center for Community Progress lists the following states as having passed comprehensive state enabling land bank legislation as of mid-2014:

1. Georgia
2. Michigan
3. Missouri
4. Nebraska
5. New York
6. Ohio
7. Pennsylvania
8. Tennessee
9. West Virginia⁸⁶

Other states, such as Texas (discussed below), also have land bank statutes, but do not fall under the “comprehensive enabling statute” rubric. Texas’s law, for instance, started with a local focus (first Dallas, and then Houston), although it has since expanded its reach.⁸⁷ California has a School Land Bank Act,⁸⁸ and Washington’s law focuses on the use and conversion of public lands.⁸⁹ Each state’s law is unique, reflecting that state’s legal and political environment, and each provides varying powers to the land banks that are created thereunder. Generally speaking, the various powers given to land banks under the state enabling laws include the ability to acquire property

⁸⁵ [National Map of Land Banks & Land Banking Programs](#) (Center for Community Progress June 2014).

⁸⁶ [*Id.*](#)

⁸⁷ See [Tex. Local Gov’t Code arts. 379C, 379D, and 379E](#).

⁸⁸ See [Cal. Pub. Resources Code § 8700 et. seq \(2014\)](#).

⁸⁹ See [Wash. Rev. Code ch. 79.19 \(2014\)](#).

through tax delinquency proceedings; the ability to hold property, tax exempt; the ability to dispose of property for other than monetary consideration; and a variety of other options, according to the specific direction of the land bank's board of directors.⁹⁰

B. Examples of State Land Bank Legislation

1. Michigan's Land Bank Fast Track Act

Michigan is often cited as the frontrunner in terms of innovative and effective land bank laws. Until January 2004, however, Michigan's tax foreclosure laws on abandoned properties were largely ineffective, because local governments did not have the authority to effectively manage tax-reverted land and prevent further blight.⁹¹ Now, Michigan has one of the most progressive land banking laws in the nation.⁹² On January 5, 2004, the [Land Bank Fast Track Law, Public Act \(PA\) 258](#), established a state land bank authority and enabled the establishment of city and county land bank authorities as well. The law permits these authorities to expedite the acquisition of properties with clear titles and make them available for productive reuse in the community. In conjunction with PA 258, the Governor also signed into law four other related Public Acts:

- [PA 259](#) amended the Michigan Brownfield Redevelopment Act to allow land bank-owned property to be defined as "blighted property," which enables a tax increment financing board to provide assistance to a land bank authority with clearing or quieting title and disposing of property.

⁹⁰ [Id.](#)

⁹¹ Jessica de Wit, [Revitalizing Blighted Communities with Land Banks](#) (Univ. of Mich.).

⁹² See [Mich. Comp. Laws §124.751](#) *et seq.*

- [PA 261](#) created the Property Tax Exemption Act, which exempts property held by land bank authorities from taxes, and exempts property sold by land bank authorities from general property taxes for five years.
- [PA 260](#) created the Tax Reverted Clean Title Act to provide that when taxes on property sold by a land bank fast track authority were collected, half of the revenue funded an authority's title clearance and land disposition costs, and the remaining half was earmarked for local and state collecting units on a pro-rata basis.
- [PA 263](#) amended the General Property Tax Act to permit a foreclosing governmental unit to request a title product other than an unreliable title search, in order to identify owners of tax delinquent properties at the time of foreclosure and describe a reasonable process for identifying these owners and providing public notice to them.

In the 2014 legislative session, \$1.7 million in funding for the Fast Track Land Bank Authority was included in [Senate Bill 608](#), which was signed into law by the Governor on March 14, 2014. Initially, the House passed a version of the bill that did not include the funding. Rep. Joe Haveman, R-Holland, House Appropriations Committee Chairman and member of the conference committee, said that as the issue was negotiated, he agreed to allow the \$1.7 million for the land bank authority to be part of the bill. "We are still working to solve the problem of blight," noted Rep. Haveman, whose background is in homebuilding and real estate. "I was willing to go along with this one. What we need to do is ask ourselves, 'Do we have a better idea?'"⁹³

⁹³ Jack Spencer, Michigan Capitol Confidential, [Land Bank Funding Makes It Into Supplemental Spending Bill](#) (Mackinac Center for Pub. Pol. Mar. 21, 2014).

Several bills remain pending in the Michigan Legislature to revise current land bank law. Under the law as it currently stands, private buyers are given an opportunity to purchase properties through auction before a land bank can acquire a tax-reverted property, but there have been cases in which local governments purchased tax-delinquent properties and then sold them to the land bank at cost. Two measures ([HB 4626](#) and [HB 5083](#)) would prohibit local governments from purchasing these tax-delinquent properties before private buyers have a chance to buy them at auction.⁹⁴

2. Ohio's Land Bank Act

Ohio's land bank statute authorizes counties with populations of over 600,000 to form a county land reutilization corporation (CLRC), which is a nonprofit corporation created to promote the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, and other real property.⁹⁵ The board of directors of a CLRC is composed of at least five members, including the county treasurer, at least two of the members of the board of county commissioners, and two members selected by the treasurer and commissioners and approved by a majority of municipal chief executives in the county.⁹⁶

Under the statute, a CLRC can:

- Borrow money through lines of credit or any other financial instrument or security;

⁹⁴ Laura Tomaka, [March 2014 Question of the Month](#) (Council of State Governments Midwest, Policy & Research).

⁹⁵ The Ohio statute is codified at [Ohio Rev. Code § 1724.01 et seq.](#)

⁹⁶ [Sub. S.B. 353, Act Summary, 127th Gen. Assembly 2009](#); see also Thomas J. Fitzpatrick IV, [Understanding Ohio's Land Bank Legislation](#) (Fed. Reserve Bank of Cleveland Jan. 2009).

- Issue bonds for the purpose of constructing public infrastructure improvements;
- Make loans;
- Purchase, receive, transfer, hold, manage, lease, or otherwise acquire or dispose of real or personal property;
- Enter into contracts with third parties, including the federal government, state or political subdivisions, or any other entity;
- Acquire the good will, business, rights, real and personal property, and other assets or interest of another person or entity;
- Acquire or manage improved or unimproved and underutilized real estate for the purpose of constructing industrial plants, business establishments, or housing to increase utilization of real estate;
- Apply for grants;
- Engage in code enforcement and nuisance abatement;
- Charge fees for services performed;
- Employ and provide compensation for an executive director who will manage the corporation and employ others for the benefit of the corporation;
- Purchase delinquent property tax certificates;
- Receive assignments of mortgages; and

- Do everything "necessary or convenient to carry out" the corporation's purposes.⁹⁷

The Ohio statute allows a CLRC to act as the agent of a municipal corporation to remove or repair nuisance buildings, and provides for a lien to attach to the property to offset such expenses. A municipal corporation, county, or township may enter into an agreement with a CLRC to facilitate the reutilization of tax-foreclosed land under the land reutilization law. The statute grants a priority right of acquisition in property to a municipal corporation or township over the interest acquired by a CLRC, except for land acquired through tax foreclosure procedures.

The statute also authorizes the levy of a countywide, voter-approved property tax to fund a CLRC. The board of county commissioners may appropriate money and convey property to a CLRC from county general revenues or from revenues raised by the property tax. Upon the request of the treasurer, the board of county commissioners may designate an additional 5% of all delinquent property taxes and manufactured and mobile home taxes collected to be deposited in a fund for use by a CLRC. The board of county commissioners may also pay up to 5% of the proceeds from the sale of tax-foreclosed property to a CLRC.⁹⁸

⁹⁷ [Sub. S.B. 353, Act Summary, 127th Gen. Assembly 2009](#); see also Fitzpatrick, [Understanding Ohio's Land Bank Legislation](#).

⁹⁸ [Sub. S.B. 353, Act Summary, 127th Gen. Assembly 2009](#); see also Fitzpatrick, [Understanding Ohio's Land Bank Legislation](#).

3. New York State's Land Bank Act

In 2011, following the collapse of the housing market, the New York State Legislature passed a law authorizing the creation of ten land banks — all of which would be nonprofit organizations that could acquire vacant, abandoned, or foreclosed properties and choose to rebuild, demolish, or redesign them.⁹⁹ However, [N.Y. Not-for-Profit Corp. Law art. 16](#), which authorized the land banks, did not provide funding for them. New York Attorney General Eric Schneiderman therefore launched a [Land Bank Community Revitalization Initiative](#) to fill the gap and allow land banks a meaningful opportunity to fulfill their purpose. In late 2013, the Attorney General allocated \$20 million to fund existing land banks.¹⁰⁰

Then, in February 2014, the Attorney General proposed a bill to expand the number of land banks in New York from ten to twenty, which was approved by the Governor on June 10. The bill received [strong support](#) from Schneiderman. The Attorney General stated that “[l]and banks are a critical tool to help communities that are plagued by vacant and abandoned properties . . . recover from the housing crisis.”¹⁰¹ [Tamar Shapiro](#), the President and CEO of the [Center for Community Progress](#), was equally supportive of the change. “This

“Land banks are a critical tool to help communities that are plagued by vacant and abandoned properties . . . recover from the housing crisis.”

New York Attorney General
Eric Schneiderman

⁹⁹ [Statement from A.G. Schneiderman on Passage of Legislation Authorizing 10 New Land Banks](#) (N.Y.A.G. June 10, 2014). New York’s Land Bank Act is summarized [here](#).

¹⁰⁰ Luke Telander, Community Progress Blog, [Ten New Land Banks Authorized in New York](#) (Center for Community Progress June 11, 2014).

¹⁰¹ [Id.](#)

legislation provides a wonderful opportunity for more communities across New York State to utilize land banking as a tool to stabilize communities and eliminate blight,” Shapiro said.¹⁰²

Under the New York Land Bank Act, the powers granted to a land bank are quite broad. They include:

- Adopting, amending, and repealing bylaws;
- Suing and being sued in their own names in all civil actions;
- Making contracts, giving guarantees, and incurring liabilities;
- Borrowing money at rates of interest determined by the land bank;
- Procuring insurance or guarantees from the state or federal government;
- Procuring insurance against losses;
- Entering into contracts and other legal instruments necessary to exercise the land bank’s powers;
- Investing the land bank’s money; and
- Creating a redevelopment plan.¹⁰³

Under the New York law, a land bank may acquire property through gift, devise, transfer, exchange, foreclosure, or purchase. Generally, a land bank may acquire only real property that is tax delinquent, tax foreclosed, vacant, or abandoned. However, there are two exceptions to this rule. First, a land bank has the authority to acquire other types of real property from political subdivisions, and second, a land bank has the authority to enter into an agreement to purchase other real property consistent with an

¹⁰² [*Id.*](#)

¹⁰³ [New York’s Land Bank Act](#) (N.Y. State Ass’n of Counties Nov. 2011), at 3.

approved redevelopment plan.¹⁰⁴ The New York State Land Bank Act does not permit a land bank to exercise eminent domain—the inherent power of a governmental entity to take privately owned property, especially land, and convert it to public use, subject to reasonable compensation for taking. Instead, a local government would have to acquire the property first, and then convey it to a land bank.¹⁰⁵ A municipality may enter into a contract to sell delinquent tax liens to a land bank. Property owners must be given at least 30 days’ notice of the sale. A tax lien may be sold for more or less than its face value.

A land bank may convey any interest in it has in real property in order for it to be used for public places and spaces; affordable housing; retail, commercial, and industrial activities; or wildlife conservation.¹⁰⁶

4. Pennsylvania’s Land Bank Act

In late 2013 (effective 2014), Pennsylvania passed its Land Bank Act, which allows any county, city, or borough in the state with a population of at least 10,000 to establish a new land bank as a single-purpose organization to acquire or otherwise assume ownership of delinquent property on an untaxed basis for five years, in order to repurpose it for new private or public uses.¹⁰⁷ The law is expected to provide new land banks, which will be led by volunteer boards, with a broad range of options to “design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate and otherwise

¹⁰⁴ [*Id.*](#) at 3.

¹⁰⁵ [*Id.*](#) at 4.

¹⁰⁶ [*Id.*](#)

¹⁰⁷ [Land Banking 101: Pennsylvania Land Bank Act; Pa. Cons. Stat. tit. 68, ch. 21 \(2012\).](#)

improve property,” according to the legislation’s description.¹⁰⁸ The Pennsylvania statute also empowers land banks to enter into partnerships, joint ventures, and other collaborative relationships with both public and private entities to further the goal of rehabilitating property. The Pennsylvania statute, like most state land bank laws, is enabling legislation that requires local action before a land bank is actually formed.¹⁰⁹

The powers of a Pennsylvania land bank include the ability to:

- Acquire properties by tax foreclosure, purchase, lease-purchase agreement, donation, or transfer from a city or redevelopment authority;
- Develop, construct, rehabilitate, or demolish properties;
- Sell, transfer, lease, or mortgage properties;
- Discharge tax liens and file court actions to clear title; and
- Create collaborative relationships with public and private entities.

The legislation explicitly *excludes* the power of eminent domain.¹¹⁰

A Pennsylvania land bank gets its funding from:

- Rents from and fees for management of the properties it owns;
- Grants and loans from various levels of government, as well as private sources;
- Issuing revenue bonds, which are exempt from taxation; and
- Agreements with local taxing entities to receive up to 50% of the taxes on land bank property for up to five years post-transfer.¹¹¹

¹⁰⁸ [Pa. Cons. Stat. tit. 68, ch. 21 \(2012\)](#).

¹⁰⁹ [Land Banking 101: Pennsylvania Land Bank Act](#); [Pa. Cons. Stat. tit. 68, ch. 21 \(2012\)](#).

¹¹⁰ [Pa. Cons. Stat. tit. 68, ch. 21 \(2012\)](#).

Local governments that create land banks may establish their own priorities for the reuse of land-banked properties, including the establishment of public spaces, creating affordable housing, conservation, and commercial/industrial uses. The land bank must create an inventory of land-banked properties and make that inventory public.¹¹²

5. Other Jurisdictions

In *Texas*, a coalition of housing advocates, title attorneys and government officials concerned with vacant properties came together to brainstorm and look at best practices from other states. Meanwhile, government officials from the City of Dallas had also begun to examine these issues. The two groups came together to draft state legislation allowing a local land bank to be piloted in Dallas. That law passed in 2001. Based on its success, in 2005 the legislation was expanded to apply to Houston, and in 2007 to apply statewide. Because the legislation was drafted with input from affordable housing groups and other community advocates, it has a strong policy focus on preserving affordable housing.¹¹³

In 2012, *Georgia* passed its [Land Bank Act](#), authorizing land bank authorities to encompass multiple counties, which is particularly important for the City of Atlanta because it spans both Fulton and DeKalb Counties. The new law provides financing mechanisms that allow land banks to retain revenues generated from property sales and gives local governments the authority to direct up to 75% of property tax revenues

¹¹¹ [Id.](#)

¹¹² [Id.](#)

¹¹³ The Texas statutes are codified at [Tex. Local Gov't Code arts. 379C](#), [379D](#), and [379E](#).

from sold land-bank properties to land-bank organizations for up to five years after their sale.¹¹⁴

In 2013, *Nebraska* became the most recent Midwestern state to enact comprehensive land bank legislation. [LB 97](#) authorized local governments in the Omaha metropolitan area to create land banks to deal with the area's growing inventory of vacant and abandoned properties. As with the Michigan statute, Nebraska land banks will receive 50% of the property tax revenue for five years after the sale of a property.¹¹⁵

Not all recent changes have occurred at the state level. In *Philadelphia*, for instance, the Mayor signed new land bank legislation into law in December 2013.¹¹⁶ The enactment of [Bill No. 130156-A](#) followed years of advocacy by members of the Philly Land Bank Alliance. The legislation seeks to create a land bank that is predictable, accountable, transparent, efficient, equitable, and sustainable. The land bank aims to make it faster, easier, and more economical to repurpose vacant land, thereby transforming it from a liability to public asset. The new [Philly Land Bank](#) should be operational in 2015.¹¹⁷

San Francisco's ordinance requires the transfer of underutilized or surplus housing to the Office of Housing for the development of affordable housing.¹¹⁸ Properties that are suitable for development must be sold or leased to a non-profit entity for the development of affordable housing or services for the homeless, and properties

¹¹⁴ [Land Banks in Action: Fulton County, Georgia](#) (U.N.C. School of Gov't June 12, 2014); Ga. Code § 48-4-100 *et seq.*

¹¹⁵ Smart Growth America, [State Policy Toolkit: State Land Bank Enabling Legislation](#).

¹¹⁶ [Building a Land Bank](#) (Philadelphia Land Bank).

¹¹⁷ The Philly Land Bank is discussed in further detail in Chapter 4, **Land Bank Case Studies**.

¹¹⁸ [San Francisco Admin. Code ch. 23A, Ord. 227-02 \(2002\)](#).

that are not suitable for low-income housing must be sold in order to generate funds for affordable housing projects.¹¹⁹

C. Model Legislation

[Frank S. Alexander](#), the co-founder of and senior advisor to the [Center for Community Progress](#), provides a template for enacting land bank legislation in Appendix C of his seminal works, [Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks](#), published in 2005, and the 2011 [Land Banks and Land Banking](#). These guides include sample language for state legislation, inter-local agreements, and local ordinances, as well as a plethora of in-depth information about land banks.

Certain guiding principles can be applied in a more general fashion. In order to achieve the maximum effectiveness of land bank laws, these important elements require consideration in every state:

- **Purpose:** State statutes should include a mission statement and clearly communicate general policy priorities. Land banks may be created to acquire, manage, and transfer ownership of property. They can help accomplish a variety of local and regional policy goals, including removing blight, assembling parcels for redevelopment, creating affordable housing, and stabilizing property values. The statute should address these various priorities.
- **Intergovernmental agreements:** Sometimes multiple jurisdictions have control over and responsibility for vacant and tax-delinquent properties—e.g., tax assessment and collection often rests with the county, but municipalities

¹¹⁹ [San Francisco's Surplus City Property Ordinance](#) (HousingPolicy.org 2012).

also have jurisdiction over property within the city limits. Other governmental entities, including school boards, may also be able to levy taxes. Because of this multi-faceted control, an intergovernmental agreement may be necessary to ensure that the land bank receives the appropriate authority to achieve its goals. State laws should provide clear parameters and statutory authority for intergovernmental (or inter-local) agreements.

- **Structure:** State statutes should outline a system of governance for land banks, including the number of board members and how they will be appointed, and address how land banks should be staffed (e.g., by existing city agencies or independently).
- **Financing:** Many land banks receive revenue from multiple sources, including through their own operations, government grants, and tax revenue. States should ensure that land banks are given the authority to independently generate revenue other than by sales of properties (e.g., by issuing bonds or notes).
- **Acquisition:** Some statutes restrict the types of properties land banks can acquire, but in most cases a land bank will benefit from the flexibility to acquire all types of properties (e.g., with and without structures, residential, commercial, and industrial), through a variety of means (e.g., deed in lieu of foreclosure, donation, voluntary conveyance, or purchase).
- **Disposition:** State laws should also give land banks the authority to transfer properties in variety of ways. Land banks should be able to transfer ownership for different purposes (e.g., housing, side lots, commercial

development, and other productive uses), and to a vast array of entities (e.g., private developers, neighboring property owners, and community development corporations). Land banks should also be prepared, especially in weak markets, to hold properties for a long period of time.¹²⁰

¹²⁰ Smart Growth America, [*State Policy Toolkit: State Land Bank Enabling Legislation*](#).



III. Effects on Private Property Owners in the Area

A. Possible Benefits

By redeveloping once-vacant properties, many cities have experienced budgetary, environmental, public safety, housing, and quality-of-life benefits. Successful land bank programs remove a source of blight from the community and can create a synergy of benefits that have the potential to spur additional reinvestment. The more notable positive impacts of land banking on a community and its residents are illustrated in the following diagram and discussed below.

Land Banks and Community Urban Greening

Many of the urban communities that land banks serve contain large scores of vacant and underused land. This land can pose a challenge for city governments and local residents from both a tax perspective and as an eyesore, since vacant lots are often overgrown, dirty, and unkempt. By serving as a source of affordable properties, land banks help resolve this problem by stimulating urban “greening” projects. Through programs such as “Adopt-A-Lot,” “Side Lot Transfers,” and other programs that employ local residents to maintain vacant property, land banks are instrumental in providing the space that community members need to spur neighborhood greening initiatives.

Urban greening projects enabled by land bank programs serve dual purposes. They attend to the vacant land in a cost effective manner,[†] while also engaging the local community in efforts to aesthetically improve blighted neighborhoods. Community-based greening projects, including mowing programs, park development, and beautification, have consistently shown to have positive social and environmental outcomes. This is especially important in areas where local governments are fiscally strained and unable to attend to traditional municipal duties, such as park maintenance.

Urban greening projects also provide important ecosystem services, such as air filtration, noise reduction, and storm water drainage and treatment. They generally improve local habitats that have been over-developed due to abandonment and neglect.^{††} In addition to these important benefits, community urban greening projects have also been cited as improving social relations in degraded urban environments, where there is often a heightened sense of mistrust among residents due at least in part to the vision of abandonment in the surrounding environment.^{†††} Through repeated contact by participating in urban greening projects, local residents of all ages get to know their neighbors better while learning new greening skills.^{††††} A newly created or maintained space provides an additional setting for social interaction. Following greening development initiatives, local groups often host block or park parties to showcase the newly renovated space.

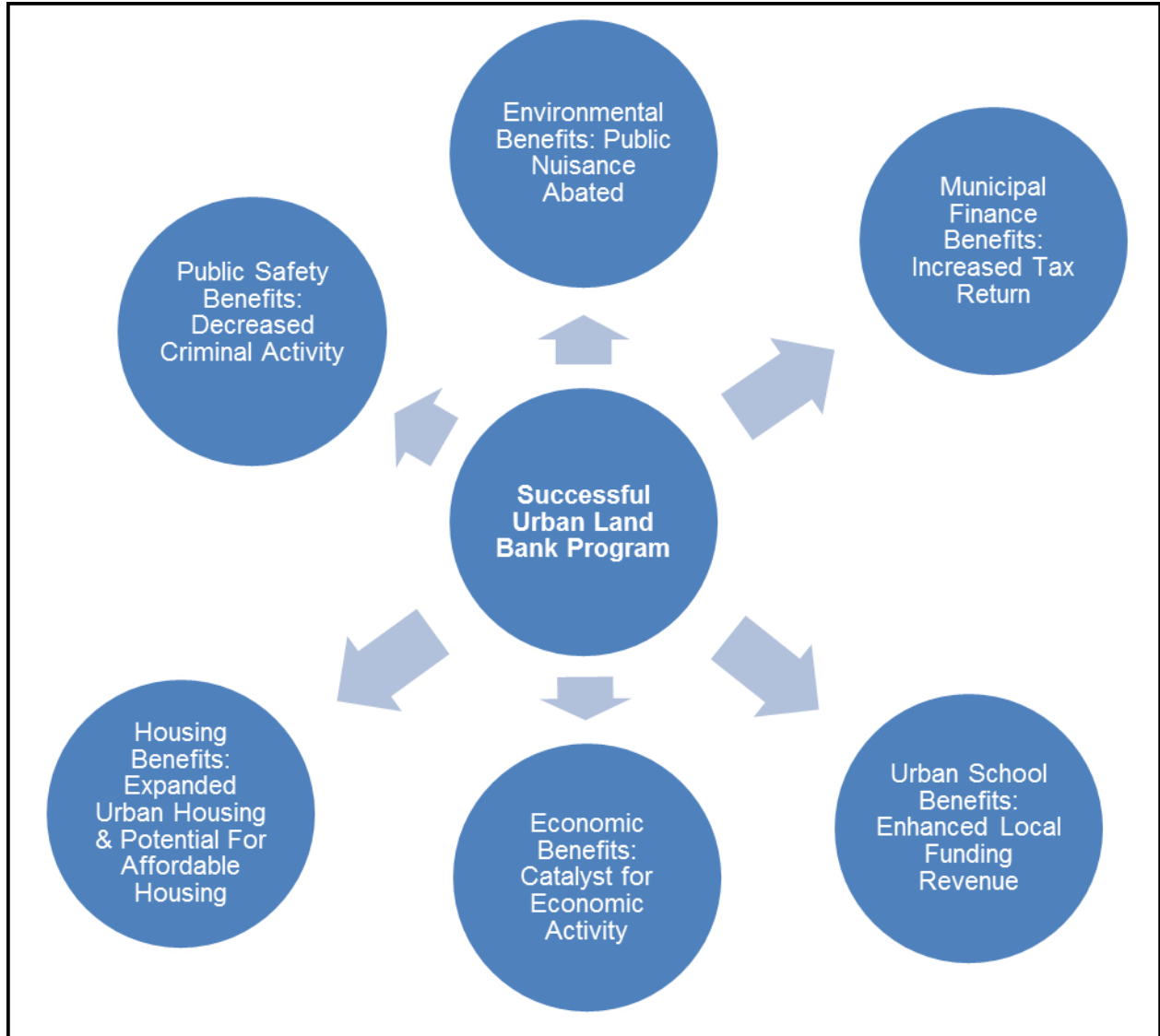
[†] The Genesee County Land Bank Authority, for instance, enables residents to purchase a vacant lot for less than \$100, including processing fees. Flint residents can also lease lots for five-year periods for \$1.00 per year.

^{††} Kathleen L. Wolf, *The Nature and Health Connection: Social Capital and Urban Greening Ecosystems* (Proceedings of the 2012 International Society of Arboriculture Conference, Aug. 11-15, 2012, Portland, Oregon).

^{†††} Catherine E. Ross, John Mirowsky, & Shana Pribesh. 2001, *Powerlessness and the Amplification of Threat: Neighborhood Disadvantage, Disorder, and Mistrust*, *American Sociological Review* 66(4): 568-591 (2001).

^{††††} Lynne M. Westphal, *Urban Greening and Social Benefits: A Study of Empowerment Outcomes*, *Journal of Arboriculture* 29(3) (2003).

Figure 9. Benefits of Successful Urban Land Bank Programs¹²¹



¹²¹ Kirwan Institute for Study of Race & Ethnicity, [Policy Memorandum: The Multiple Benefits of Land Banking and Comprehensive Land Bank Planning for Detroit](#) (Ohio State University 2004).

1. Increased Property Values

A 2012 study by the Federal Reserve Bank of Cleveland, which analyzed land bank-owned property including vacant lots left after demolition, showed that homes within 500 feet of a land bank-owned property sold at prices approximately 5% higher than similar homes located elsewhere.¹²² By contrast, homes sold prior to land bank acquisition of the nearby vacant property sold at a discount of 3 to 5%. Land bank demolition appeared to have the most positive impact, adding 9% to the value of a nearby home. The study's authors explained that "the land bank's activities have [also] removed blight and increased the property values of all the nearby homes that were not sold. This maintained a cushion of equity for those households, maintained collateral value for mortgage holders, and slowed the erosion of the tax base."¹²³

The Effects of Vacant Property & Land Banks on Housing Values

Vacant properties can have drastic effects on the surrounding environment. By attracting crime—including arson—they become public safety hazards; they also drain local governments of tax collections and of resources needed to keep them safe. These properties have a negative effect on local housing values, which can be problematic for residents who maintain their homes.

A 2006 study of the impact of tax foreclosed properties and land banking programs on housing values in Flint, Michigan, found that a vacant structure within 500 feet of residential housing decreased housing values by as much as 2.27%; the reduction was 1.92% for houses up to 1,000 feet away.[†] Plus, in cities that have experienced great population declines, remaining residents faced higher insurance premiums and more of the tax burden. These issues create a grim financial situation that may contribute to decline and abandonment.

Land banks can help support the financial well-being of local residents by either demolishing or developing properties. Research conducted for the Ingham County Land Bank suggests that such programs have a positive impact, shown by a 5% increase in residential property values within 500 feet of a renovated area.

[†] N. G. Griswold, *The Impacts of Tax-foreclosed Properties and Land Bank Programs on Residential Housing Values in Flint, Michigan* (Doctoral Dissertation, Mich. State Univ. 2006).

¹²² W. Dennis Keating, Ph. D., [*A Successful Stabilization Response for the Present, A Strategic Development Catalyst for the Future*](#) (2013 Annual Report of the Cuyahoga County Land Reutilization Corp.), at 12 (citing Stephan Whitaker & Thomas J. Fitzpatrick IV, [*The Impact of Vacant, Tax-Delinquent, and Foreclosed Property on Sales Prices of Neighboring Homes*](#) (Fed. Reserve Bank of Cleveland Mar. 2012)).

¹²³ [*Id.*](#)

2. Increased Tax Revenues

Given that it generally produces no property tax income, vacant property can be a drain on city, county, and school district financial resources. If the property were occupied, the owners would be paying taxes. Also, as noted above, vacant properties tend to decrease the values of surrounding properties as well,¹²⁴ which further reduces tax collections.¹²⁵ Turning vacant property into occupied property can help everyone in the community by shoring up the tax base and increasing the number of taxpayers.

Some land banks (such as the one in Genesee County, Michigan) operate side lot programs, which enable property owners to purchase adjacent vacant lots for a nominal fee.¹²⁶ These programs help put even more real estate back on the tax rolls. The Genesee County Land Bank also allows neighborhood residents to use vacant lots for gardens, which does not directly create tax revenue, but helps beautify the area and stabilize property values, thereby having an indirect effect on tax revenues—and a direct impact on community morale.¹²⁷

By returning once-vacant properties to productive use, and consequently returning them to the tax rolls, land banks help bolster public funds.¹²⁸ A land bank provides tools to quickly turn tax-reverted properties back into usable parcels that

¹²⁴ The Cleveland [study](#) concluded that the value of property is reduced by up to 2.7% for each vacant property within 500 feet.

¹²⁵ For a more complete discussion of the impact of vacant properties on the community, see Alan Mallach & Vicki C. Krueger, *Maintaining Properties in Foreclosure—How Communities Across America are Responding to the Vacant Property Crisis in Their Own Backyards* (Nat'l Ass'n of Realtors® 2009).

¹²⁶ U.S. Dep't of Housing & Urban Dev., [Revitalizing Foreclosed Properties with Land Banks](#), at 3.

¹²⁷ [Id.](#)

¹²⁸ Kirwan Institute for Study of Race & Ethnicity, [Policy Memorandum: The Multiple Benefits of Land Banking and Comprehensive Land Bank Planning for Detroit](#) (Ohio State University 2004).

reinvest in the community's long-term vision for its neighborhoods. Land bank programs can be an important economic development tool to revitalize blighted neighborhoods and business districts, thereby improving tax revenues, which in turn makes more money available for public services, public schools, and the community in general.¹²⁹

3. Safer Neighborhoods

Studies have shown a direct link between vacant structures and criminal activity. Research indicates that vacant buildings are associated with narcotics trafficking, the storage of stolen goods, sexual assault, and a variety of other crimes.¹³⁰ Blocks with easily accessible vacant structures may experience crime rates twice as high as areas without accessible vacant buildings.¹³¹ Neighborhood blight discourages pedestrian traffic in the area, and the reduced foot traffic results in less natural surveillance or “eyes on the street.” Criminal offenders take note of this, and crime increases as a result.¹³²

¹²⁹ Jessica de Wit, [Revitalizing Blighted Communities with Land Banks](#) (Univ. of Mich.).

¹³⁰ Kirwan Institute for Study of Race & Ethnicity, [Policy Memorandum: The Multiple Benefits of Land Banking and Comprehensive Land Bank Planning for Detroit](#).

¹³¹ [Id.](#)

¹³² [Id.](#)

Maintaining Vacant Property to Reduce Crime

Can managing vacant property help reduce crime? According to residents who live within the vicinity of vacant structures, the answer is a resounding “Yes!” And empirical analysis comes to much the same conclusion.

Local residents are usually the most vocal about getting vacant structures demolished, because such structures are often targets for metal scrapping and arson. These activities make surrounding neighbors uneasy due to the proximity of their own homes to the vacant structures. In addition, vacant homes and properties are havens for other illegal activities, including drug use and sales, prostitution, and dog fighting. Ample research illustrates that these kinds of social (public drinking and drug use, panhandling) and physical (blight and trash, graffiti) disorder conditions put local residents on edge, often causing them to retreat from social interaction and to be more mistrusting of their neighbors. But research also suggests that urban greening projects like Genesee County Land Bank’s “Clean and Green” program have the potential to reduce crime by sending the message that a given area is a cared for and “watched” place, creating an environment that is not inviting to criminals. Evidence from research in Philadelphia has shown that not only did urban greening improve neighborhood residents’ perceptions of safety, but that there was also an actual decrease in violent crime associated with urban greening of vacant lots.[†] While not as meticulously studied, case studies have shown similar effects in other post-industrial cities.

Indeed, land banks play a critical role in helping manage blight and crime in disordered urban environments. State laws that were ushered in with the second generation of land banks enable them to gain control over delinquent properties in a timelier manner. Prior to this legislation, it could take a local treasurer’s office up to six years to acquire an abandoned property, while the newer laws reduce this time to between one and two years. These policies lead to speedier demolition processes for the condemned homes that are a source of anxiety for local residents. When there is less blight, people are less fearful and generally feel better about their neighborhood.

[†] Charles C. Branas, Rose A. Cheney, John M. MacDonald, Vicky W. Tam, Tara D. Jackson, & Thomas R. Ten Have, [A Difference-in-Differences Analysis of Health, Safety, and Greening Vacant Urban Space](#), *American Journal of Epidemiology* 174, (11): 1296-1306 (2011); Eugenia C. Garvin, Carolyn C. Cannuscio, & Charles C. Branas, [Greening Vacant Lots to Reduce Violent Crime: A Randomised Controlled Trial](#), *Injury Prevention: Journal of the International Society for Child and Adolescent Injury Prevention* 19, (3): 198-203. 2013.

4. Decreased Costs for Public Safety and Maintenance

Vacant and abandoned properties require additional public services, like fire and police protection, due to the increased public safety concerns associated with vacant structures. The fewer the vacant properties, the lower the costs. Vacant properties may contain faulty electrical wiring, for instance, and are often attractive targets for arson, or for “squatters.” Vacant structures also present safety hazards to children, who may wander into them and become trapped, victimized, or injured. A land bank program can accelerate the rehabilitation or demolition of abandoned structures and thereby reduce these public safety concerns and the associated costs for police and fire protection.¹³³ Taxpayers save money as a result of lower police and fire department costs, while at the same time gaining personal security—a win-win situation.

Land bank programs also benefit local governments by reducing the significant cost of vacant property maintenance, like mowing and snow removal, as part of their nuisance abatement responsibilities, so the community experiences economic benefits in this way as well.¹³⁴

5. More Affordable Housing

Land bank programs can increase the variety of mixed-income housing offered and provide more opportunities for affordable housing.¹³⁵ In San Francisco, for instance, a city ordinance requires the transfer of underutilized or surplus city-owned property to

¹³³ [*Id.*](#)

¹³⁴ Jessica de Wit, [Revitalizing Blighted Communities with Land Banks](#) (Univ. of Mich.).

¹³⁵ [*Id.*](#)

the Office of Housing for the development of affordable housing.¹³⁶ Under the ordinance, properties that are suitable for development must be sold or leased to a non-profit entity for development of affordable housing or services for the homeless. Properties that are not suitable for low-income housing development must be sold in order to generate funds for affordable housing projects.¹³⁷ Since 2004, 15 properties have been transferred to the Office of Housing pursuant to the program.¹³⁸ Of these 15, two were developed as multi-unit affordable housing; one was reserved as a community garden; five were not developable, but could provide funding for affordable housing; and seven were deemed infeasible for development.¹³⁹ San Francisco Mayor Ed Lee has made it the top priority of his administration to build 30,000 new housing units in the city by 2020, with a third of them being affordable to the lower and middle classes.¹⁴⁰

The creation of more affordable housing serves an area's lower-income families and can bring diversity to a neighborhood. More residents in an area can attract more businesses. The more residents and businesses that occupy property in a

¹³⁶ [San Francisco Admin. Code ch. 23A, Ord. 227-02 \(2002\)](#). "Surplus Property" means "any Property that is not required to fulfill the mission of the City department, commission or agency with jurisdiction or control of such Property or that would not fulfill the mission of another governmental agency pursuant to an inter-governmental transfer." "Underutilized Property" means "an entire Property or portion thereof, with or without improvements, that is used by the City only at irregular periods of time or intermittently, or that is used by the City for current purposes that can be satisfied with only a portion of such Property, or that is not currently occupied or used by the City and for which there are no plans by the City to occupy or use such Property within the next fiscal year."

¹³⁷ [San Francisco's Surplus City Property Ordinance](#) (HousingPolicy.org 2012).

¹³⁸ [Public Sites Development Framework](#) (San Francisco Mayor's Office of Housing & Community Dev. Dec. 11 2014).

¹³⁹ [Id.](#)

¹⁴⁰ John Cote, [S.F. Mayor Ed Lee Launching Affordable Housing Program](#) (S.F. Gate Dec. 10, 2014).

neighborhood, the more services and amenities that will be needed, like stores and restaurants, which boosts local economic activity.¹⁴¹

B. The Possible Downside

There is sometimes concern among those in the real estate industry that land banks will crowd out buyers from the real estate market.¹⁴² Land banks, some would argue, are in a position to “cherry pick” the most desirable foreclosed properties, and can step in ahead of private buyers who are also interested in the property.¹⁴³ However, many of the best-run land banks work closely with the private sector and generally welcome participation by real estate professionals, the counter-argument goes.¹⁴⁴ In addition, many land banks are set up to acquire property that would otherwise not be sold in the private market, so they are not taking any meaningful opportunities from other mainstream buyers.¹⁴⁵

“The very existence of the Land Bank sends a chilling message to property owners as well as potential real estate investors. County officials have a free rein to implement their utopian vision of smart growth land use policy through the Land Bank. It is not hard to imagine the removal or relocation of entire neighborhoods ‘with the community’s needs in mind.’”

Russ Harding, Director of the Property Rights Network at the Mackinac Center for Public Policy

Even so, some detractors maintain that land banks exert too much governmental control, taking the power away from individual buyers. In Genesee County, for instance, critics

¹⁴¹ de Wit, [Revitalizing Blighted Communities with Land Banks](#).

¹⁴² Jarrett Skorop & Anne Schieber, [Land Banks Profit by Cutting in Front of People Wanting to Buy Property](#) (Mich. Capitol Confidential Dec. 3, 2013).

¹⁴³ David Czurak, [Land Bank to Reply to Harsh Criticism](#) (Grand Rapids Business Journal Oct. 1, 2012).

¹⁴⁴ Great Lakes Environmental Finance Center, [Best Practices in Land Bank Operation](#) (Cleveland State Univ. Maxine Goodman College of Urban Affairs June 2005).

¹⁴⁵ [Land Banks: Frequently Asked Questions and Background Information](#) (BridgetGainer.com).

assert that the County has taken government control of private property to a whole new level with the Land Bank.¹⁴⁶ Private ownership of property—a mainstay of the American political and economic system since the founding of the country—is threatened by land banking, according to this way of thinking. Private property rights are guaranteed in both the state and federal Constitutions. Americans are supportive of government ownership of property when it serves a public purpose, such as a school, highway, or park, but the Genesee County Land Bank reaches beyond the traditional purposes of government ownership of property. The County is in effect acting as a real estate agent and landlord, according to this viewpoint. Some have even accused the county of being a slum landlord due to the blighted condition of much of the property in the Land Bank.¹⁴⁷ The very existence of the Land Bank, it is argued, sends a chilling message to property owners as well as potential real estate investors, because county officials have free reign to implement their “utopian vision of smart growth land use policy through the Land Bank. It is not hard to imagine the removal or relocation of entire neighborhoods ‘with the community’s needs in mind.’”¹⁴⁸

According to this viewpoint, the Land Bank will not help to reverse the decline of Flint, but will instead serve as a barrier to the private investment necessary for revitalization. Potential investors avoid uncertainty. “Unfortunately the Land Bank provides much uncertainty as the private sector is susceptible to the land use planning whims of county officials,” argues Russ Harding, Director of the Property Rights

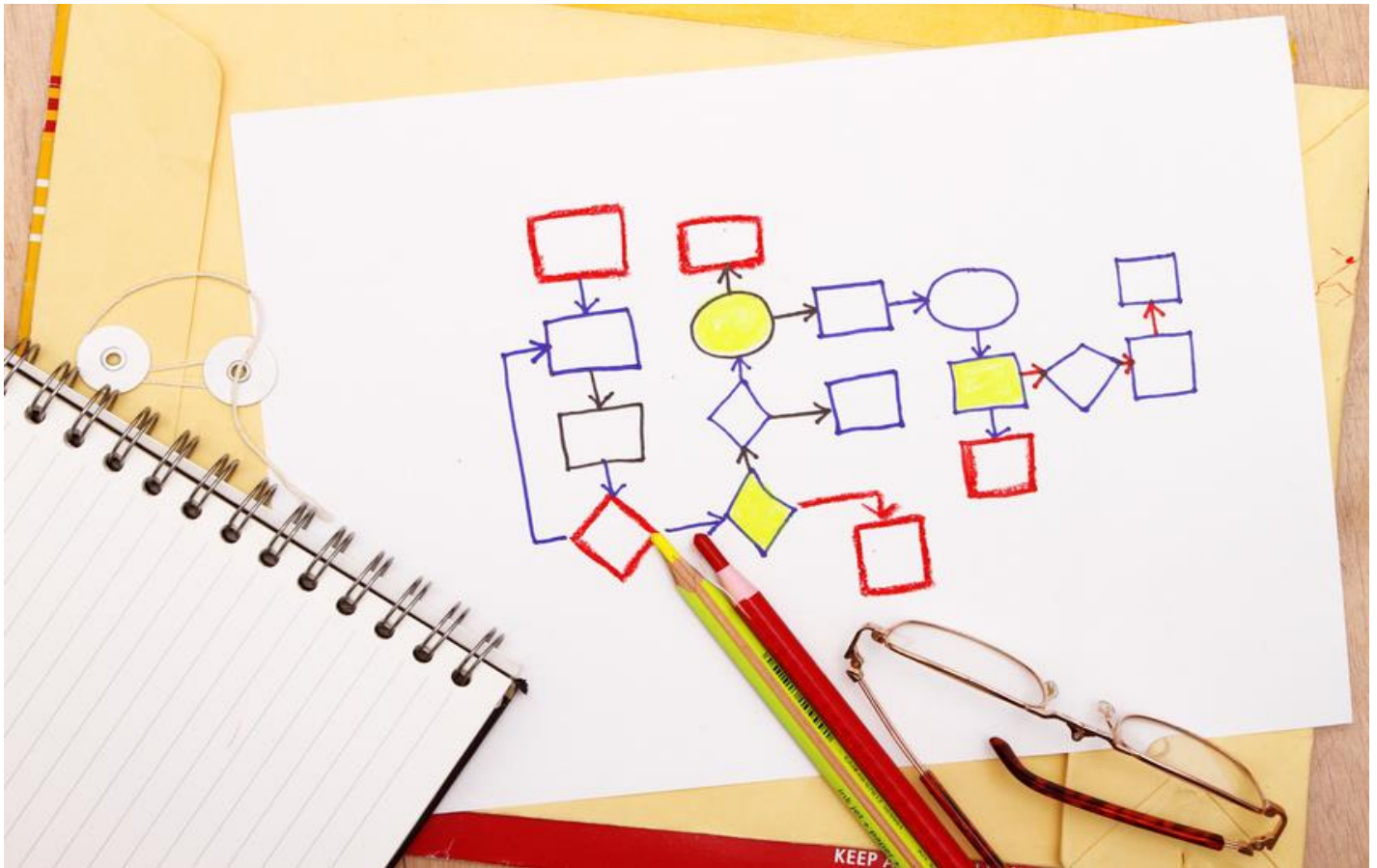
¹⁴⁶ Russ Harding, [Analysis: Genesee County Land Bank Threatens Private Property Rights](#) (Mich. Capitol Confidential Aug. 5, 2010).

¹⁴⁷ [Id.](#)

¹⁴⁸ [Id.](#)

Network at the Mackinac Center for Public Policy. “Although the Land Bank may be well intentioned,” he says, “as with many government programs it causes more problems than it solves and it should be dissolved.”¹⁴⁹

¹⁴⁹ [Id.](#)



IV. Land Bank Case Studies

There are currently about 150 land banks in 23 states—Michigan leads with 36 (as of June 2014). Although no two land banks are identical, they do share some common characteristics. Some of the more notable examples of land banks across the United States are discussed below.

A. Genesee County, Michigan (Flint)



At its peak in the 1960s, Flint, Michigan—the birthplace of General Motors—was a thriving community with a population of nearly 200,000.¹⁵⁰ As the auto industry fell into decline, however, many residents left the area in search of better jobs and a more hopeful future, leaving many abandoned homes in their wake. This wave of abandonment led to mounting tax delinquencies, which in turn led to widespread neighborhood deterioration.¹⁵¹ Antiquated and cumbersome tax foreclosure procedures compounded the vacant property crisis until, beginning in 1999, Michigan overhauled its tax foreclosure laws.¹⁵² The [Genesee County Land Bank Authority](#) (GCLBA) grew out of this multi-tiered legislative reform.

Under the revised law, instead of selling tax liens to investors, counties may foreclose on tax-delinquent properties through an efficient judicial process, and then take ownership if the property is not redeemed by the owner (i.e., if the owner does not

¹⁵⁰ U.S. Dep't of Housing & Urban Dev., Office of Policy Dev. & Research, [Revitalizing Foreclosed Properties with Land Banks](#) (Sage Computing Aug. 2009), Appendix A at 9 & n.26.

¹⁵¹ [Id.](#), Appendix A at 9.

¹⁵² Josiah Madar, Vicki Been & Amy Armstrong, [Transforming Foreclosed Properties Into Community Assets](#) (N.Y.U. Furman Ctr. for Real Estate & Urban Policy Dec. 2008), at 32.

pay all back taxes owed). The figure below shows the process that a property now goes through once tax foreclosure has occurred.

Figure 10. Genesee County Tax-Foreclosed Property Acquisition Process¹⁵³



State tax reform and formation of the GCLBA have enabled Genesee County to shorten the timeline for the entire tax foreclosure process from several years to just one to three years, which reduces the amount of time properties remain vulnerable to decay.¹⁵⁴

The GCLBA's mission is to "restore value to the community by acquiring, developing and selling vacant and abandoned properties in cooperation with stakeholders who value responsible land ownership."¹⁵⁵ The GCLBA has developed innovative programming in the areas of sales, development, property management/rental, land-use planning, side lot and adopt-a-lot programs (which give homeowners the option to buy or lease adjacent vacant lots from the land bank), urban gardening, and demolition.¹⁵⁶ Other notable achievements include:

¹⁵³ GCLB, [Foreclosure Process](#).

¹⁵⁴ Madar *et al.*, [Transforming Foreclosed Properties Into Community Assets](#), at 32.

¹⁵⁵ GCLBA, [What We Do](#).

¹⁵⁶ Kildee & Hovey, [Land Banking 101: What Is a Land Bank?](#), at 4.

- Increasing the likelihood that title to tax foreclosed properties will be insurable, based on the use of an efficient judicial, rather than lengthy and complicated, administrative process;
- Investing the proceeds of tax collection actions, including interest, fees, and penalties, in maintaining and redeveloping land-banked properties, rather than selling off properties to investors with little interest in repurposing;
- Allowing the demolition of foreclosed properties to prevent them from becoming community *disamenities*; and
- Allowing for the aggregation of properties in order to create larger parcels for more comprehensive redevelopment.¹⁵⁷

The Genesee County Land Bank is reportedly the largest of all land banks currently in operation.¹⁵⁸ It has acquired over 10,000 properties since its inception, with the highest concentration in the city of Flint.¹⁵⁹ The GCLBA currently owns nearly 9,000 properties in the county, consisting of about 150 commercial buildings, 4,500 residential buildings, over 200 vacant commercial lots, and over 4,100 vacant residential lots.¹⁶⁰ The GCLBA renovates about 25 to 50 abandoned properties per year and then sells or rents them at affordable prices to qualified purchasers or tenants.¹⁶¹

¹⁵⁷ Madar *et al.*, [Transforming Foreclosed Properties Into Community Assets](#), at 32-33.

¹⁵⁸ Kildee & Hovey, [Land Banking 101: What Is a Land Bank?](#), at 4.

¹⁵⁹ According to one source, the Land Bank owned about 12% of the land in Flint as of 2008. See Madar *et al.*, [Transforming Foreclosed Properties Into Community Assets](#), at 32.

¹⁶⁰ GCLBA, [What We Do](#).

¹⁶¹ U.S. Dep't of Housing & Urban Dev., [Revitalizing Foreclosed Properties with Land Banks](#), Appendix A at 11.

The Genesee County Land Bank is entirely self-supporting through funds recouped from redeeming owners and sales of properties. The key to its economic vitality is the Land Bank's county-wide approach to finances: the revenue earned is equally distributed across even the most distressed areas.¹⁶² Dan Kildee, former Flint County Treasurer and board member of the GCLBA, says that flexibility and setting realistic expectations are the keys to the successful implementation of any land bank.¹⁶³

B. Cuyahoga County, Ohio (Cleveland)



Most of Cleveland's housing stock was built following World War I for working-class families who earned their livings in the local factories and mills. In recent years, however, suburbanization and the exodus of the manufacturing sector to cheaper markets cut the city's population by more than half, from a high of over 900,000 in 1950 to under 400,000 in 2010.¹⁶⁴ By 2010, nearly 20% of the city's housing stock was vacant. The suburbs were not immune, either—Cuyahoga County's overall foreclosure rate quadrupled between 1995 and 2007. Real estate "flippers," who bought distressed homes and then sold them for a profit after

¹⁶² Madar *et al.*, [Transforming Foreclosed Properties Into Community Assets](#), at 33.

¹⁶³ U.S. Dep't of Housing & Urban Dev., [Revitalizing Foreclosed Properties with Land Banks](#), Appendix A at 11.

¹⁶⁴ Evidence Matters, [Countywide Land Bank Tackles Vacancy and Blight](#) (U.S. Dep't of Housing & Urban Dev. Winter 2014).

making only superficial repairs, did not help the situation. Although the foreclosure pace has lessened, the area is still coping with the aftermath.¹⁶⁵

In an effort to address the foreclosure and vacant property crisis, the creation of the [Cuyahoga Land Bank](#) (CLB) was authorized by state statute, in order to acquire and dispose of property. To establish the inventory, [HUD](#) sells properties valued at up to \$20,000 to the Land Bank for \$100 each, and private banks, such as Wells Fargo and Bank of America, donate foreclosed and vacant properties. The CLB can also acquire properties by buying their tax lien certificates, and through tax foreclosures. Strategic acquisition of properties, including adjacent parcels, empowers the CLB to effectuate large-scale interventions, such as creating green spaces, which help stabilize neighborhoods.¹⁶⁶

Unfortunately, the City of Cleveland, with its housing stock designed for a million residents, continues to experience population declines, so rehabilitation is not always the best option. After all, there is no reason to rehabilitate a home that no one will live in. It may come as a surprise that the CLB demolishes about 60% of the properties it acquires—over 2,000 since 2009.¹⁶⁷ The remaining 40% are rehabilitated, either by the Land Bank or by individual homeowners. A program for veterans called [HomeFront](#), for

¹⁶⁵ [Id.](#)

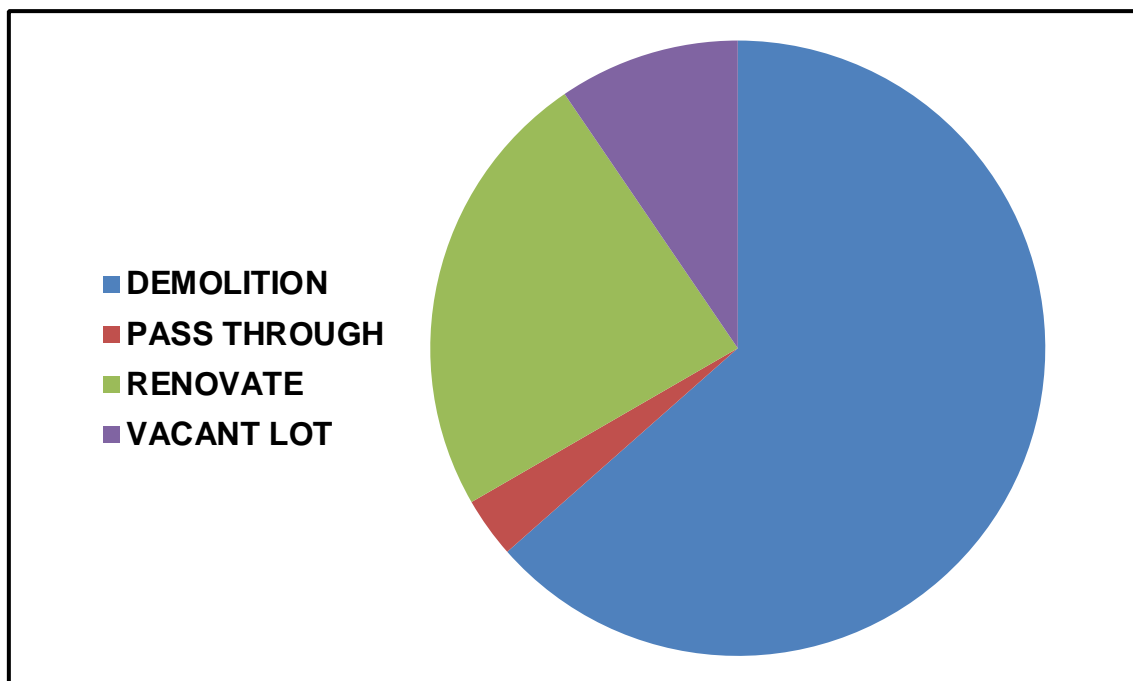
¹⁶⁶ [Id.](#)

¹⁶⁷ [Id.](#) Demolition can actually result in an increase in nearby property values. A recent study by the University of Michigan found that a \$3.5 million investment in demolition by the City of Flint over three years resulted in an increase in surrounding property values of more than \$112.5 million. See Smart Growth America, [State Policy Toolkit: State Land Bank Enabling Legislation](#).

instance, requires that homeowners keep the property as their primary residence for two years or more and rehabilitate the property up to Land Bank standards.¹⁶⁸

Figure 11 below illustrates the disposition patterns for Cuyahoga Land Bank properties.

Figure 11. Assessment and Disposition Status for Properties Acquired by Cuyahoga Land Bank¹⁶⁹



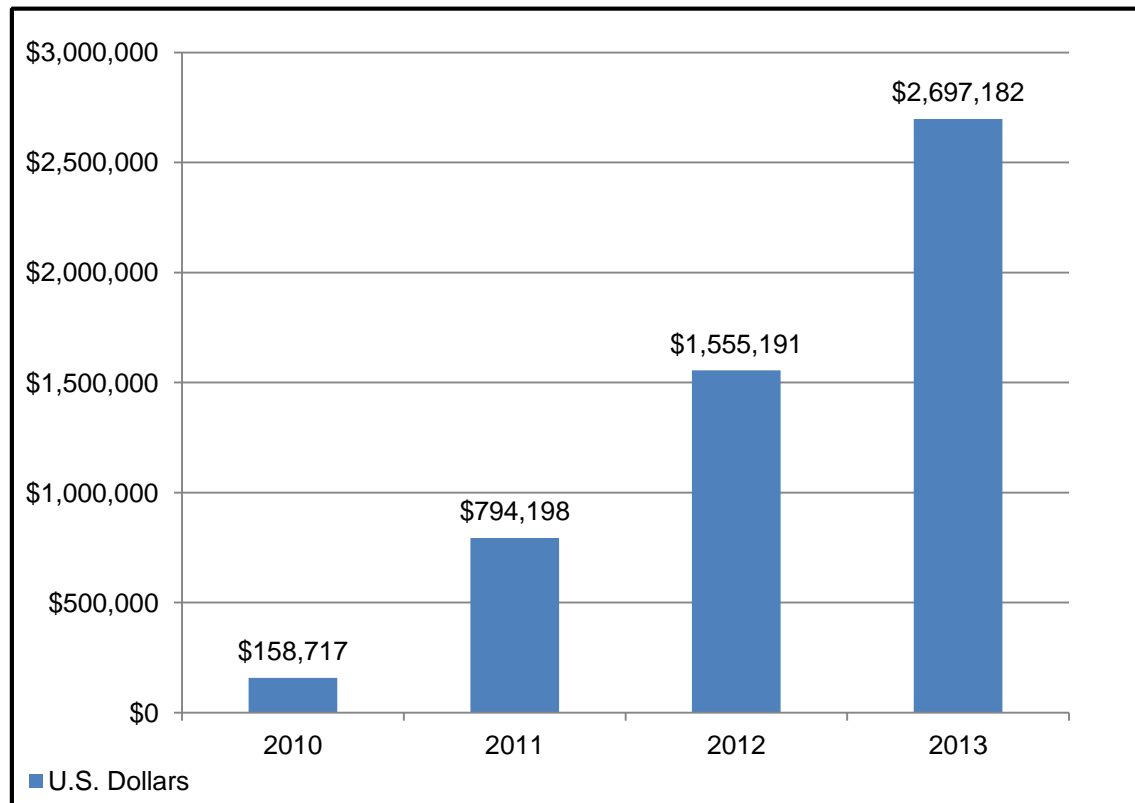
Two critical keys to CLB's success are the independence of its funding stream—which includes collection of the area's delinquent taxes, interest, and penalties—and its well-organized inventory. CLB maintains a database of properties, including their associated expenses and code violations, that integrates data on each property and

¹⁶⁸ [*Id.*](#)

¹⁶⁹ Keating, [*A Successful Stabilization Response for the Present, A Strategic Development Catalyst for the Future*](#), at 13.

adjacent parcels, which enables strategic decision-making and planning.¹⁷⁰ The land bank also generates significant revenues from property sales, which have risen dramatically in the last few years—reaching nearly \$3 million in 2013—as shown in the following figure.

Figure 12. Cuyahoga Land Bank Revenues from Property Sales¹⁷¹



In 2012, the CLB broke new ground by partnering with law enforcement agencies. Some criminal defendants, as part of their sentences or plea deals, now agree to forfeit their properties to the Land Bank. In 2013, the land bank accepted the

¹⁷⁰ Evidence Matters, [Countywide Land Bank Tackles Vacancy and Blight](#).

¹⁷¹ Keating, [A Successful Stabilization Response for the Present, A Strategic Development Catalyst for the Future](#), at 17.

property of Ariel Castro, the notorious convicted kidnapper. The Cuyahoga Land Bank demolished the property where Castro's crimes occurred.¹⁷²

C. Fulton County, Georgia (Atlanta)



The Atlanta area, like many others, experienced a loss of population to the suburbs in the 1970s, but by the 1990s the downtown areas were beginning to recover.¹⁷³ The increase in population spurred revitalization in only some areas, however, while others continued to maintain significant inventories of vacant properties. A common barrier to the reuse of such properties was the fact that the long-accumulating past-due taxes exceeded the property's value. Georgia state law required that the minimum bid for properties sold at tax sales include all back taxes, plus penalties and interest, which was compounded at 18% per year.¹⁷⁴ Adding insult to injury was the fact that the appraised value of these properties was artificially high, failing to take into account the falling market values that occurred during the period of urban abandonment. As a result, properties that may have otherwise been attractive to non-profit developers remained vacant.¹⁷⁵

¹⁷² [*Id.*](#) at 27.

¹⁷³ [*Land Banks in Action: Fulton County, Georgia.*](#)

¹⁷⁴ [*Id.*](#)

¹⁷⁵ [*Id.*](#)

In 1990 Georgia legislators passed the state's first land banking statute, which gave land banks the authority to extinguish back taxes on acquired properties.¹⁷⁶ Then, in 1995, the legislature reformed the tax foreclosure system to allow judicial foreclosures, which reduced the process from twelve to two months and made it easier to clear title.¹⁷⁷ After the 1990 legislation passed, Atlanta and Fulton County established Georgia's first land bank, which, for most of its existence, has focused on clearing the title to tax-delinquent properties to allow productive reuse as affordable housing.¹⁷⁸

Since 1991, the [Fulton County/City of Atlanta Land Bank Authority](#) (LBA) has been instrumental in redeveloping declining neighborhoods and increasing the supply of affordable housing in that part of Georgia.¹⁷⁹ The LBA is a joint quasi-governmental authority with an independent board of directors consisting of county and city officials. The LBA can bid on tax-foreclosed properties, but the main mechanism by which it acquires properties is through governmental and non-profit or developer transfers. The land bank encourages developers to acquire tax-delinquent properties from current owners prior to the initiation of foreclosure proceedings, by enabling them access to a searchable database of tax-delinquent properties. Developers can purchase the property and then transfer it to the LBA, which clears the title and waives all back taxes before re-conveying the property back to the developer.¹⁸⁰ This transfer process is illustrated in Figure 13 below.

¹⁷⁶ [*Id.*](#)

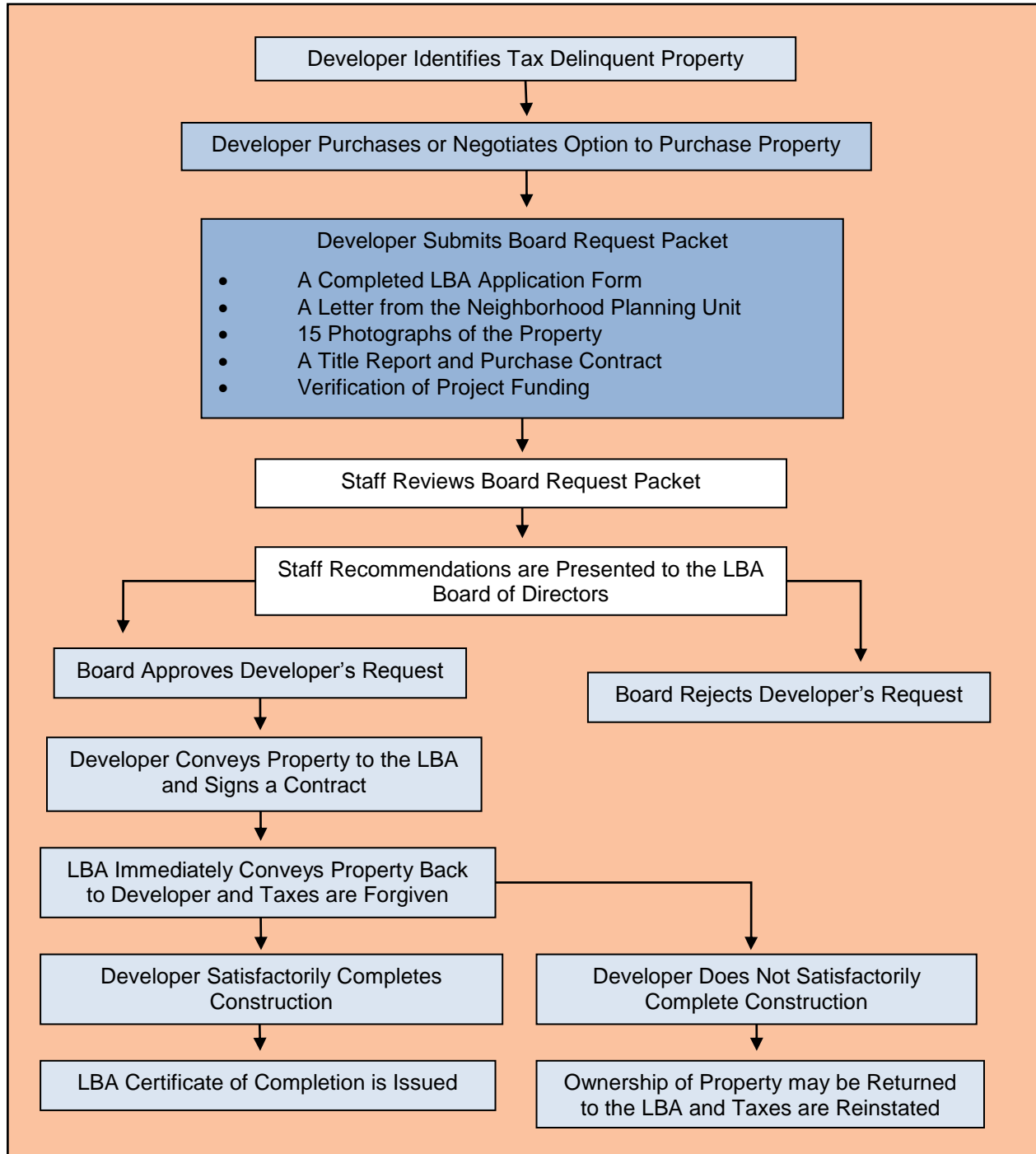
¹⁷⁷ [*Id.*](#)

¹⁷⁸ [*Id.*](#)

¹⁷⁹ U.S. Dep't of Housing & Urban Dev., [Revitalizing Foreclosed Properties with Land Banks](#), Appendix C at 16.

¹⁸⁰ [*Id.*](#)

Figure 13. Fulton County/City of Atlanta Land Bank Authority Property Transfer Process¹⁸¹



¹⁸¹ [*Id.*](#) at 18.

The Fulton County/City of Atlanta LBA requires that the acquired property be used for affordable housing, neighborhood improvement, or another public purpose. If the required redevelopment does not occur within three years, title reverts to the Land Bank and back taxes are reinstated.¹⁸²

A policy enacted in 2007 allows the LBA to hold properties for up to three years for non-profits and five years for governmental entities, while pre-development work occurs. The goals of this policy are to permit advance acquisition of potential development sites in anticipation of rising land prices, facilitating planning and financing, minimizing code violations, and holding parcels for future public purposes, including open spaces and greenways. During this holding period, the properties are tax-exempt.¹⁸³

As of 2009, the Fulton County/City of Atlanta Land Bank Authority had facilitated the transfer of 50 to 100 properties each year for affordable housing or other public use. Then, in 2012, Georgia passed the [Land Bank Act](#), authorizing land bank authorities to encompass multiple counties, which is particularly important for Atlanta since it spans both Fulton and DeKalb Counties. The new law also provides for financing mechanisms that allow land banks to retain revenues generated from property sales and gives local governments the authority to direct up to 75% of property tax revenues from sold land-bank properties to land-bank organizations for up to five years after their sale.¹⁸⁴ The

¹⁸² [Land Banks in Action: Fulton County, Georgia.](#)

¹⁸³ [Id.](#)

¹⁸⁴ [Id.](#)

Fulton County/City of Atlanta LBA currently holds about 40 single- and multi-family properties.¹⁸⁵

The mission of the Fulton County/City of Atlanta Land Bank Authority is to facilitate the transformation of the City and County into a vibrant community by:

- Extinguishing past due tax liens from property foreclosed upon by Fulton County and the City of Atlanta in their tax collection capacities; and
- Returning non-revenue generating, non-tax producing, or blighted property to an effective utilization status in order to provide affordable housing, public space, new industry, and jobs for the citizens of the city and county.¹⁸⁶

D. Baltimore, Maryland



BALTIMORE HOUSING

Baltimore has lost nearly a third of its population since the 1950s, as many factories closed and many workers lost their manufacturing jobs.¹⁸⁷ As a result, the city faced growing blight and crime arising in part from the tens of thousands of vacant and abandoned housing

"Instead of using our resources and powers to put properties back on the market, we've been spending it on the maintenance of divestment. It's time to wake the dead potential of these lots and buildings. It's time to return value to our city's land and make that value work for us."

Former Baltimore Mayor
Martin O'Malley

¹⁸⁵ Christopher Norman, [Land Banking: Pathways Towards Sustainable Urban, Suburban and Rural Land Reclamation](#) (12th Annual New Partners for Smart Growth Conference Feb. 7, 2013).

¹⁸⁶ *Id.*

¹⁸⁷ U.S. Dep't of Housing & Urban Dev., [Revitalizing Foreclosed Properties with Land Banks](#), Appendix B at 12.

units.¹⁸⁸ In 2002, then-Mayor Martin O'Malley went on a mission to acquire 5,000 vacant and abandoned properties and return them to productive use. "Instead of using our resources and powers to put properties back on the market, we've been spending it on the maintenance of divestment. It's time to wake the dead potential of these lots and buildings. It's time to return value to our city's land and make that value work for us," O'Malley said.¹⁸⁹

When O'Malley first tried to implement the program, the city's vacancy rate was the fourth highest in the nation at 14.1%.¹⁹⁰ "Vacant houses breed crime, they breed trash, and they diminish the value of homes that represent the lifesavings of hardworking citizens," O'Malley said. The first step was to identify properties for acquisition, and then, second, to establish partnerships in order to minimize operating costs. "Project 5000," as it was dubbed, sought free services from attorneys, newspapers, and other entities to help defray operating costs. The third stage involved implementing a streamlined process to improve acquisition and legal processes, followed by the final stage of disposing of acquired properties with the help of local real estate brokers and developers.¹⁹¹

Project 5000 acquired over 6,000 properties during its three-year run and resulted in the development of a number of city innovations, but it was only a beginning.

¹⁸⁸ [*Id.*](#)

¹⁸⁹ [*Id.*](#)

¹⁹⁰ [*Id.*](#)

¹⁹¹ [*Id.*](#), Appendix B at 13.

After the enactment of Senate Bill 911 in 2008, the city was officially authorized to create a Land Bank Authority.¹⁹²

In 2010, Baltimore initiated its “[Vacants to Value](#)” program, which made it easier to sell city owned properties and return them to productive use after decades of abandonment and disinvestment. This web-based program allows interested parties to browse a database of available city-owned properties for the purposes of purchase and redevelopment. The goal is to expedite the process of returning blighted properties to productive use. The “Vacants to Value” strategy seeks to cut the transactional time for selling city property from one year to just three months, while at the same time increasing the number of vacant city properties sold.¹⁹³

In addition, Baltimore Housing's [Land Resources Division](#) is committed to streamlining the disposition process by creatively marketing city-owned properties and increasing access to their listings. The Division is actively involved in strategically acquiring, managing and disposing of real property to create housing, social, and economic development in Baltimore's neighborhoods. The Division's objectives include working collaboratively with diverse community, government, and business interests.¹⁹⁴

E. New York Land Banks

In October 2014, the [New York Land Bank Association](#) released a report on the early accomplishments of the state's first nine land banks during the previous two years, stretching from Erie to Suffolk County. *New York State Land Banks: Combating Blight*

¹⁹² [Id.](#), Appendix B at 13-14.

¹⁹³ Baltimore Housing, *Mayor Announces “Vacants to Value” Plan to Reduce Blight* (Nov. 3, 2010).

¹⁹⁴ Baltimore Housing, [How to Buy a City Owned Property](#).

*and Vacancy in New York Communities*¹⁹⁵ shows that New York land banks are already strengthening their communities.

Land banking began in New York after the 2011 passage of the Land Bank Act, which authorized the creation of ten land banks in New York. In June 2014, a new state law authorized the creation of another ten. The currently established New York land banks include:

- Albany County Land Bank Corporation
- Broome County Land Bank Corporation
- Buffalo Erie Niagara Land Improvement Corporation
- Chautauqua County Land Bank Corporation
- Greater Syracuse Land Bank
- Land Reutilization Corporation of the Capital Region
- Newburgh Community Land Bank
- Rochester Land Bank Corporation
- Suffolk County Land Bank Corporation

The New York Land Bank Act charged the Empire State Development Corporation with managing the competitive application process establishing land banks in the state. Eight communities submitted applications in the first two rounds (Spring 2012 and Winter 2012/2013), and all eight were approved. The first eight land bank awards reflect diverse geographies and interests: two local jurisdictions, four single counties, and two regional entities. A ninth land bank, Albany County, was created in June 2014.

¹⁹⁵ Available at <http://www.centerstateceo.com/NYLBA>.

Most land banks were initially staffed by local or county personnel, usually from the planning and development departments. The early focus was on board selection, policy development, understanding of the powers unique to land banks, and determining the scope and pace of initial activities and transactions. Support from the CenterState Corporation for Economic Opportunity and Center for Community Progress helped the staff and board members cultivate a strong peer-to-peer network that involved monthly phone calls, biannual summits, and an active email listserv. Advocacy and educational efforts at the local and county levels generated interest and excitement for these new entities, and helped secure financial commitments from elected leaders (and even private entities) to help fund operations. Though most government appropriations were restricted to programs and activities, land banks in Syracuse and Newburgh were able to generate funding commitments for hiring dedicated Executive Directors in 2012.

Though the first eight land banks assumed a slow, steady, and deliberate pace for the first two years, the announcement of a dedicated fund for land banks by Attorney General Eric Schneidermann in the summer of 2013 catalyzed their action. The Attorney General's Land Banks Community Revitalization Initiative made \$33 million available to the land banks in September 2013 and July 2014. The funds were part of the first National Mortgage Settlement awarded to New York. With millions in start-up funds available to support staff and land bank activities—such as acquisition, demolition, and rehabilitation of problem properties—there was ample motivation to quicken the pace. Nearly all the land banks' proposed expenditures in their funding applications included hiring staff, but there was a lot of innovation and variety among

the other proposed activities, with each land bank tailoring its application to unique local needs and priorities.

New York communities, particularly the urban centers and rural villages across Upstate New York, have long struggled to minimize the negative effects of vacancy and blight. With the emergence of a nascent land bank movement in New York, there is reason for optimism. Not even three years old, the state's land bank movement is posting impressive gains in the vibrancy and security of its neighborhoods.¹⁹⁶

F. Philadelphia, Pennsylvania



Philadelphia has been cited as one of the best examples of the use of technology and information systems to support the repurposing and restoration of abandoned or tax-delinquent property.¹⁹⁷ Philadelphia's Citywide [Neighborhood Transformation Initiative](#) has identified over 26,000 vacant residential structures, as well as nearly 3,000 vacant commercial structures and over 30,000 vacant lots. Modeled after Portland, Oregon's successful management-based information system, Philadelphia's system used Geographic Information System (GIS) mapping to prioritize properties. The city's innovative Decision Support Model used data collection and comparisons to determine causal relationships among the listed parcels based on weighted input factors, including the condition of the structure, the overall

¹⁹⁶ For more information, see the complete report on the New York Land Bank Association's website at <http://www.centerstateceo.com/NYLBA>.

¹⁹⁷ Great Lakes Environmental Finance Center, [Best Practices in Land Bank Operation](#) (Cleveland State Univ. Maxine Goodman College of Urban Affairs June 2005), at 13.

number of vacant structures in the area, and the property's ownership characteristics.¹⁹⁸ The parcels were then listed according to the priorities and goals of the Neighborhood Transformation Initiative, and a strategic plan was developed for the parcels determined to be priorities. The Decision Support Model set up demolition schedules where appropriate, and in other cases displayed potential patterns for new development. In both scenarios, online databases were maintained to allow potential developers access to the available properties.¹⁹⁹

While state law controlled the land acquisition and property demolition aspects of the program, up until very recently no specific legislation was adopted for the purposes of an actual land bank. The City of Philadelphia relied on intergovernmental cooperation and departmental compliance in forwarding its goals. The success of the program required a high degree of cooperation between the Mayor's Office, the City Council, and departmental heads. In addition, the Neighborhood Transformation Initiative sought the input of local neighborhood development corporations through a grassroots campaign that allowed local wards and neighborhoods the opportunity to implement strategies with regard to their specific needs and community goals.²⁰⁰

Even so, an estimated 40,000 properties currently sit vacant in the city of Philadelphia, and nearly 10,000 of these properties are publicly owned.²⁰¹ The financial impact of these vacancies is enormous, diminishing property values by an estimated 6.5% on a citywide basis. Maintenance costs and judicial procedures related to these

¹⁹⁸ [*Id.*](#) at 13-14.

¹⁹⁹ [*Id.*](#) at 14.

²⁰⁰ [*Id.*](#)

²⁰¹ U.S. Dep't of Housing & Urban Dev., Evidence Matters, [A Land Bank for Philadelphia](#) (Winter 2014).

properties cost the city more than \$20 million annually. The transfer of these properties to productive uses has been slow. On average, it takes at least three years to repurpose each property for productive use.²⁰²

In response to these challenges, community organizations, local non-profits, and area businesses campaigned for a citywide land bank to be used as a tool to regain control over vacant properties. Together they formed the [Philly Land Bank Alliance](#). Members included the Greater Philadelphia Association of Realtors®, the Building Industry Association, the Campaign to Take Back Vacant Land (a coalition of faith-based and activist groups), and the Philadelphia Association of Community Development Corporations (PACDC). “Everyone agreed that the current process was broken and that the land bank was a key solution to addressing that problem,” according to Rick Sauer, Executive Director of the PACDC. Together, their efforts culminated in the unanimous approval of the [Philadelphia Land Bank](#) bill by the city council in December 2013.²⁰³

The [Philly Land Bank](#) will pull together vacant properties owned by multiple city agencies, each of which has its own process for managing and disposing of property. Control will be consolidated in the land bank. Because fewer public agencies will be involved and a more streamlined process will be implemented, the land bank is expected to return vacant sites to productive use within 12 to 18 months. In addition to taking title to publicly owned properties, the land bank may receive donations from other public agencies, acquire tax-delinquent properties, and purchase properties. The land

²⁰² [Id.](#)

²⁰³ [Id.](#)

bank is also authorized to eliminate municipal liens and real estate taxes on properties it holds and set prices on properties it sells. For instance, the land bank can sell properties at a discount if they are intended for affordable housing or other end-uses that benefit the public good.²⁰⁴ Although the land bank is technically a subsidiary of the city government, it will function as an independent entity with its own staff and board of directors, whose members include representatives of civic associations or non-profits that work in community development or housing.²⁰⁵ The new Philly Land Bank is expected to be up and running by early 2015.²⁰⁶

G. Cook County, Illinois (Chicago)



In Cook County, Illinois, nearly 200,000 housing units were vacant as of late 2012, many in the city of Chicago.²⁰⁷ In response to this

“There are a lot of attractive homes, but the longer a home sits, the harder it is to rehab. The average home buyer has few financing options for purchasing homes needing extensive rehab, so this [partnership with The PrivateBank] responds to the pent-up demand for housing from people who don’t have access to cash, but want to buy and live in these homes.”

Bridget Gainer, CCLBA Chair

vacant-property crisis, the Cook County Board passed a resolution in 2012 to establish an Advisory Committee to investigate the development of a land bank. They looked to three of the most successful land banks in the country for guidance: Minneapolis/St. Paul, Minnesota; Flint, Michigan; and Cleveland, Ohio. The [Cook County Land Bank](#)

²⁰⁴ [*Id.*](#)

²⁰⁵ [*Id.*](#)

²⁰⁶ [Building a Land Bank](#) (Philadelphia Land Bank).

²⁰⁷ [Cook County Land Bank TAP](#) (Chicago, IL Oct. 23-24, 2012), at 2.

[Authority](#) (CCLBA) grew out of those efforts. Although still in its early stages, the CCLBA shows promise.

Recently, [The PrivateBank](#) and the CCLBA announced the creation of a partnership to help eligible participants realize the dream of home ownership by rehabilitating vacant homes in Cook County. Bridget Gainer, Chairperson of the CCLBA, realized that investors “are not the highest and best use” for these properties. “There are a lot of attractive homes, but the longer a home sits, the harder it is to rehab. The average home buyer has few financing options for purchasing homes needing extensive rehab, so this [program] responds to the pent-up demand for housing from people who don’t have access to cash, but want to buy and live in these homes,” Gainer explained.²⁰⁸

Through the partnership, The PrivateBank works with the CCLBA and nonprofit organizations to identify prospective buyers. Buyers must complete home buyer counseling, while the homes are being rehabbed by pre-qualified contractors. An emphasis is put on supporting small businesses in the communities where the properties are located. The PrivateBank provides construction financing for the rehabilitation work, funds administration of the program, and retains a program management firm to oversee construction. Once the homes are complete, the home buyer may finance the home purchase using a conventional mortgage.²⁰⁹

In 2013, the [Eric and Wendy Schmidt Data Science for the Public Good](#) summer fellowship at the University of Chicago worked with the Cook County Land Bank and the

²⁰⁸ [The PrivateBank and the Cook County Land Bank Authority Announce \\$10 million in Financing for Neighborhood Stabilization](#) (CCLBA Updates 2014).

²⁰⁹ [Id.](#)

[Institute for Housing Studies at De Paul University](#) to develop an analytical framework to help decide which properties to acquire.²¹⁰ Factors that are considered in the Chicago model include:

- Neighborhood characteristics, such as building types, population trends, and density;
- Economic characteristics, such as income, property investment, and access to jobs;
- Real estate market trends in the neighborhood;
- Policy variables, such as zoning, community plans, and transportation infrastructure;
- Possible red flags, such as EPA-designated brownfields; and
- Factors specific to individual properties, such as vacancy complaints, crimes, and recent sales and foreclosures.²¹¹

The data and models, and the information generated from them, can be used to ask more questions about the property, such as whether the property would sell on its own (no need for the Land Bank to buy in that case), and how redevelopment of the property might affect its neighbors. The Land Bank can use that additional information to decide whether the property should be put back to work. The end result of the project, the [Abandoned Property Analytics Tool](#), has been made available to the public. Time will tell how effective the tool is when it is put to practical use.

²¹⁰ Juan-Pablo Velez, [Cook County Land Bank, Part 1: The Problem](#) (Data Science for Social Good July 11, 2013); Skyler Whorton, [Cook County Land Bank Part 2: A Real Estate Finder for Vacant Properties](#) (Data Science for Social Good Jan. 20, 2014).

²¹¹ Velez, [Cook County Land Bank, Part 1: The Problem](#); Whorton, [Cook County Land Bank Part 2: A Real Estate Finder for Vacant Properties](#).

H. Twin Cities, Minnesota (Minneapolis/St. Paul)



The Twin Cities Community Land Bank ([TCC Land Bank](#)), a nonprofit Community Development Financial Institution, was created in 2009 by the [Family Housing Fund](#)²¹² to produce and preserve affordable housing in the Twin Cities. The TCC Land Bank includes the cities of Minneapolis and St. Paul, as well as the surrounding cities and counties in the seven-county metropolitan area. The TCC Land Bank is a strategic tool for government, neighborhood organizations, community development corporations, and nonprofit and for-profit developers to further community-based economic development and affordable housing goals.²¹³ The Family Housing Fund acts as an intermediary organization, partnering with nonprofit housing providers, federal, state, and local government agencies, foundations, and corporations, housing and mortgage industry partners, community leaders, academic and public-policy institutions, and others to bring collaborative approaches to complex housing problems.²¹⁴

The TCC Land Bank takes both an immediate and long-range view toward the development and re-building of communities.²¹⁵ The Land Bank has raised over \$30 million to advance neighborhood recovery throughout the Twin Cities area. The TCC

²¹² The Family Housing Fund, established in 1980, is a nonprofit organization whose mission is to produce and preserve affordable housing in the Twin Cities.

²¹³ TCC Land Bank, [About Us—Overview](#) (2011).

²¹⁴ [Id.](#)

²¹⁵ [Twin Cities Community Land Bank--Building Neighborhoods. Strengthening Communities](#) (Metro Cities 2014).

Land Bank's funds are used primarily for property acquisition and rehabilitation/redevelopment.²¹⁶

The Land Bank has also established a partnership with the [National Community Stabilization Trust](#) (NCST) in a national initiative designed to facilitate the transfer of foreclosed and abandoned properties from financial institutions to local governments and their non-profit and private partners. This Real Estate Owned (REO) [Property Acquisition Program](#) seeks to achieve sustainable rehabilitation and resale or rental of foreclosed homes, and to encourage housing market activity and neighborhood stability. Under the program, properties can be obtained by approved developer partners or local governments at a discounted price in order to transfer the properties to responsible homebuyers or rental property owners.²¹⁷

The REO Property Acquisition Program consists of two parts: "First Look" and "Aged/Targeted Bulk Sale." The First Look program facilitates the purchase of vacant and foreclosed homes before they are publicly listed through traditional REO channels. Prices are calculated based on a discount formula considering the cost savings experienced by the lender, who is able to avoid some holding and transaction costs. The price also takes into account the fact that below-market pricing enables purchasers to undertake rehab projects for which they might not otherwise have the funds. The Aged/Targeted Bulk Sale program allows the purchase of currently listed foreclosed homes at an additional discount.²¹⁸

²¹⁶ [Id.](#)

²¹⁷ [Id.](#)

²¹⁸ [Id.](#)

The TCC Land Bank also engages in the rehabilitation of commercial property. One notable success story involves the Old Home Site in St. Paul.²¹⁹ Old Home Creamery's former headquarters was for sale and at risk of being demolished. The Aurora St. Anthony Neighborhood Development Corporation wanted to preserve the site, given its 1930s art deco facade, its historic significance, and its location near a stop on the new light-rail in an ethnically diverse neighborhood of St. Paul. The Land Bank provided the \$1 million financing to purchase and hold the property, enabling the small neighborhood organization time to find a developer-partner and development financing. The project includes 57 affordable housing units and 12,000 square feet of commercial space.²²⁰

I. Portland, Oregon



The Portland (Oregon) [Metro](#) is a regionally elected governmental body responsible for land use and transportation planning, environmental protection, recycling, garbage collection, and many other municipal functions.²²¹ While the Metro does not operate a land bank per se, its innovative use of technology to support local development and planning efforts through a highly integrated and efficient means of identifying and managing vacant land makes the Metro worthy of mention here.

²¹⁹ [Twin Cities Community Land Bank](#) (Opportunity Finance Network 2013).

²²⁰ [Id.](#)

²²¹ Great Lakes Environmental Finance Center, [Best Practices in Land Bank Operation](#) (Cleveland State Univ. Maxine Goodman College of Urban Affairs June 2005), at 14.

The [Regional Land Information System](#) (RLIS) maintained by Metro is a GIS database utilized by more than 150 agencies and organizations throughout the greater Portland area.²²² The system was developed in 1988 as a growth management and planning tool. The RLIS uses tax lots as the foundational structure of its system, which allows for localized property assessment and data analysis. The mapping system was obtained through a joint agreement with Portland General Electric, which already owned a mapping database.²²³ Every year, Metro purchases digital ortho-photos, or aerial photographic images, of the entire region, and then interprets the images and identifies and inventories all existing tax lots.²²⁴ Land is then categorized as vacant, partly vacant, or developed. Having identified and analyzed all vacant parcels, priorities for land development are set based on their compatibility with the long-term planning goals of [Portland 2040](#), the regional planning strategy.²²⁵

Portland Metro's best practices are its focus on using technology as a complete management tool, for both acquisition and disposition of properties, on a continuously updated basis, its integrated data management system, and its regional collaborative and planning efforts.²²⁶

²²² [Id.](#)

²²³ [Id.](#) at 14-15.

²²⁴ [Id.](#) at 15.

²²⁵ [Id.](#)

²²⁶ [Id.](#)

J. Washington, D.C.



In July 2014, the Washington, D.C. Department of Housing and Community Development (DHCD) engaged in its largest disposition of city-owned property in recent history, offering up 27 vacant properties across six sites for development.²²⁷ The DHCD hopes to convert all of these properties, which consist of 23 empty lots and four buildings, into mixed-income housing. For most of the properties, the agency specified a desire to include "family style affordable dwelling units" of two or more bedrooms, to compensate for developers' increasing emphasis on studio and one-bedroom apartments that are not suitable for most families. The exception is a cluster of properties that border neighborhoods where housing prices have rapidly increased in recent years. There, the allure of revenue may be too great to demand an abundance of affordable housing, but the DHCD still wants a mix of incomes. DHCD Director Michael Kelly called the disposition a "very proud moment." "To finally be able to show the city, region, and country the fruit of our labor is a very rewarding moment," Kelly said. According to Director Kelly, "[w]hen these properties and lots are developed it will eliminate blight, revitalize neighborhoods, increase tax revenue into the local

"When these properties and lots are developed it will eliminate blight, revitalize neighborhoods, increase tax revenue into the local economy, [and] create jobs and housing for residents and families of all income levels, suitably bolstering mixed use, vibrant, and diverse communities throughout the District."

DHCD Director Michael Kelly

²²⁷ Aaron Wiener, [City Solicits Developers for 27 Vacant Properties](#) (Washington City Paper July 14, 2014).

economy, [and] create jobs and housing for residents and families of all income levels, suitably bolstering mixed use, vibrant, and diverse communities throughout the District.”

The focus on these properties was not without a downside, however. The DHCD's Property Acquisition and Disposition Division put its acquisition of other properties on hold in order to focus on returning this group of sites to productive use. The District of Columbia has hundreds of other vacant or blighted properties whose owners cannot be located, or whose taxes exceed the properties' value. The DHCD could have purchased some of those buildings to repurpose them, but instead left them to languish while focusing on clearing its backlog of properties. According to DHCD spokesman Marcus Williams, the DHCD has now resumed its acquisition of additional properties.²²⁸

²²⁸ [*Id.*](#)



V. Conclusion

The economic downturn of 2008 made it abundantly clear that few urban communities are immune to the impacts of plummeting home values and widespread abandonment. Indeed, the phenomenon of “shrinking cities”—those cities that persistently lose population over decades—continues to raise serious concerns. In the U.S. we tend to think of American “rust belt” cities like Detroit and Cleveland as exemplifying this condition—which indeed they do—but vacancy and abandonment is actually a global phenomenon that has touched urban communities throughout the developed world.

There are multiple reasons that cities may persistently lose population over time, including the loss of an industrial base and the associated loss of jobs, as well as planning and policies that encourage residential emigration to suburbs. As urban populations decline and vacancies increase, housing values and neighborhood well-being decline as well. City governments depend on property taxes to fill their coffers, so plummeting property values and increased vacancies can lead to municipal insolvency. When cities have less money to spend, they can provide fewer community services, which leads to greater dissatisfaction, increasing crime and disorder, and an even lesser ability to retain and attract residents, perpetuating the downward spiral. In many cases, the only investors in vacant properties are landlords who take little interest in local social and economic conditions.

Land banks can be one key to helping communities stem the tide of abandonment and vacancy. Forty-five years ago, advocates urged the adoption of land banking as part of federal housing and urban development policy, but in recent years land banks have become a more prevalent—and more localized—phenomenon. Land

banking has come of age on the state and local, rather than the federal, level, and the land banks of today are far more than mere depository institutions for surplus lands. By reducing the amount of time that properties remain vacant and getting them into the hands of new and responsible owners, land banks can help ensure that vacant properties are transformed from community “parasites” to community assets.

The legal framework that accompanies land banking varies considerably by state. In Michigan, the state that has most enthusiastically embraced land banking as a strategy for dealing with municipal blight, land banks are empowered to exist at the county, rather than the city, level, which allows these institutions to address markets or market failures that may be regional in scope. Many states have completely overhauled their tax foreclosure systems to streamline that process and broaden the potential “customer base” for tax-foreclosed properties. Other states have implemented “adopt-a-lot” programs that facilitate the purchase of vacant lots by the owners of the adjoining properties, and some states have implemented community gardening programs and other “green space” uses of vacant lots. Reducing the number of vacant properties helps reduce the blight and crime that can accompany widespread abandonment, while simultaneously increasing the value of surrounding properties, increasing neighborhood morale, and helping attract more residents to the area.

Although land banking has garnered much support, not all reactions are positive. If land banks always get the first crack at tax-foreclosed properties, some critics say, they reduce the affordable housing stock available to individual homebuyers. But the naysayers notwithstanding, land banking’s many proponents believe that land banks can play a primary role in stabilizing housing markets in the face of economic declines.

The current wave of land banking has already demonstrated some evidence of success.
The need for community improvement continues, and the opportunities abound.

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APPENDIX

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²²⁹ This list was taken in part from Frank S. Alexander, [Land Banks and Land Banking](#) (Center for Community Progress June 2011), at 95. The statutes and codes discussed in the White Paper, which include some of those listed above as well as additional laws relevant to the discussion, are listed in the Bibliography.