



## Tennessee Housing Development Agency Issue Brief: LAND BANKING TO ELIMINATE BLIGHT & SUPPORT AFFORDABLE HOUSING

By Morgan Mansa, July 2016 No. 2

### INTRODUCTION

Concentrations of vacant and abandoned properties are a growing concern for many communities. Research suggests that these concentrations can lead to a number of issues, including decreases in home values, the attraction of crime, and the spreading of blight.<sup>1</sup> Alternatively, an emerging number of jurisdictions are viewing these properties as potential assets, rather than barriers to revitalization, that provide a new means for affordable housing for lower-income residents. One notable strategy to repurpose these vacant and abandoned properties is land banking.

### WHAT ARE LAND BANKS?

Land banks are governmental entities or non-profit corporations that focus on converting vacant, abandoned, and tax-delinquent properties into productive land assets. Specifically, land banks<sup>2</sup>:

- Acquire title to vacant and abandoned properties;
- Eliminate barriers to redevelopment; and
- Transfer property to a new owner in a way that supports community needs and priorities

Once the land bank acquires a property, the entity eliminates all liens and past claims on the property and clears the title, preparing the property for sale to a new owner.

Land banking has proven to be successful in facilitating infill development and spurring economic investment, however, it is not a one-size fits all model. It is recommended that any community considering a land bank should have a large inventory of vacant and abandoned property before establishing the land bank. Most of these properties should have little to no market value to ensure that the land bank is not removing valuable parcels from the housing market. Other factors that may suggest a successful land bank are that the properties have delinquent taxes in excess of fair market

value and the jurisdiction has inflexible policies that deny local governments the chance to be strategic and nimble.<sup>3</sup> The land bank is meant to revitalize the most undesirable properties in one's community.

Though often challenging, securing consistent funding for a land bank is critical in order to cover the costs of converting these liabilities into community assets. Land banks are typically funded through a variety of sources including: foundation grants, revenue from the sale of properties, specific tax collection, developer fees, general fund appropriations from local and county governments, federal and state grants, and rental income.

### LAND BANKS VS LAND TRUSTS

Land banks are not the same as land trusts. Land banks are designed to return vacant and abandoned properties into productive uses while land trusts enable community control over the land to create assets such as affordable housing and local businesses. Land banks can also lead to affordable housing and local business development, but it is by preparing properties for other groups to develop on the land. A land bank typically does not maintain a long-term interest in the land it sells. Meanwhile, a land trust holds the land in "trust" and uses its ownership to keep an eye on how it is used, its condition, and its affordability. Land banks and trusts can work together since land trusts are often looking for land to develop or buildings to bring into their portfolio. Land banks can provide land trusts with the vacant parcels or developments they need. The chart on the next page further details the difference between land banking and land trusting models.

<sup>1</sup> Smart Growth America, "State Policy Toolkit: State Land Bank Enabling Legislation", September 2011.

<sup>2</sup> <http://www.smartgrowthamerica.org/issues/revitalization/land-banking/>

<sup>3</sup> <http://www.communityprogress.net/land-banking-faq-pages-449.php>

**LAND BANKING VS. LAND TRUSTING:  
A COMPARISON OF COMPLEMENTARY STRATEGIES<sup>45</sup>**

	<b>Land Banking</b>	<b>Land Trusting</b>
Program Focus	Short-term ownership of vacant and blighted lands, remediation of contaminants, derelict structures, & title defects, and conveyance to private owners for reuse and redevelopment.	Long-term stewardship of lands and buildings after remediation and redevelopment, preserving affordability, preventing deferred maintenance, and protecting against foreclosure.
Corporate Status	Public agency or quasi-public local government corporation. The acquisition, remediation, and disposition of lands may be done as an internal program of a local government or redevelopment agency or these tasks may be assigned to a newly chartered special purpose “city/county land bank authority.”	Private, non-profit corporation. The stewardship of lands and buildings on behalf of a place-based community may be done as an internal program of an existing community development corporation (CDC) or it may be assigned to a newly incorporated “community land trust” (CLT).
Composition & Selection of Board	The corporation shall have a board of directors in which all powers of the corporation shall be vested. Such board shall consist of any number of directors, no fewer than five, all of whom shall be duly qualified electors of and taxpayers in the creating local government or local governments.	The “classic” CLT has a tripartite board made up of leaseholders, community representatives, and public representatives, with a majority of seats elected by neighborhood residents. CDCs that operate land trust programs usually strive for similar community representation and accountability.
Land Acquisition	Purchase on open market; receipt of “surplus” public property and receipt of tax-foreclosed property.	Purchase on open market; private land donations; bargain sales; receipt of “surplus” public property from a city agency or land bank authority.
Exemption from Property Taxes?	Yes, during the period when properties are held by the land bank	Generally no, but taxes may reflect restrictions on land and buildings
Duration of Land Ownership	Title to lands (and any buildings) is typically held for a short period of time: three to five years.	Land is held in trust “forever.” Buildings are sold to private owners with permanent restrictions on use and resale.
Disposition of Properties	Lands and buildings are both sold to private owners, often for the highest price the market will bear, after the land bank has cleared title and completed site remediation.	Buildings are sold to private owners at an affordable price. Title to the underlying land is retained by the CLT. The land is leased to owners of the buildings, using a ground lease that is long-term, inheritable, and mortgage-able.
Recycling of Public Investment	Subsidy recapture. Subsidies invested in acquiring and remediating lands are claimed by the land bank on the sale of the property.	Subsidy retention. Subsidies invested in acquiring and developing lands are locked into the property, lowering the price for future homebuyers (or other occupants).
Long-term Affordability of Land & Buildings?	No. Land banks typically impose no lasting affordability restrictions on lands and buildings that are removed from the land bank’s inventory and sold on the open market.	Yes. The CLT retains an option to repurchase homes (and other buildings) whenever their owners decide to sell, paying a formula-determined price that keeps homes affordable.
Long-term responsibility for Homes & Homeowners?	No. A public land bank typically imposes no conditions on the upkeep of buildings sold out of the land bank’s inventory. Nor does it intervene, should the owners of these buildings later face foreclosure.	Yes. The CLT has a right (via the ground lease) to require leaseholders to keep their buildings in good repair. The CLT also has a durable right to intervene in cases of a mortgage default to prevent foreclosure.

<sup>4</sup> Burlington Associates in Community Development LLC, “Land Banking vs. Land Trusting: A Comparison of Complementary Strategies”, 2012.

<sup>5</sup> For more information on the Tennessee State Code, see: <http://law.justia.com/codes/tennessee/2014/title-13/chapter-30>

## WHAT MAKES A SUCCESSFUL LAND BANK?

The best land banks do not work alone, but rather develop strategic partnerships with non-profits, community organizations, lenders, and local governments – all in an effort to leverage the resources available to deal with the most distressed land in the community. Additionally, according to HUD, there are four critical elements for successful land bank initiatives.<sup>6</sup>

*The scale of the land bank.* Scale the land bank at the metropolitan level, or around the most diverse real estate market possible. Land banks are most effective when they are not relegated to ownership of only the worst of the foreclosed or abandoned properties. A common fallacy of tax foreclosure – or property abandonment – is that it is all “junk” property. While most of the properties titled to land banks would meet that definition, often a small percentage of tax-foreclosed properties have more than modest value and occasionally significant value. By scaling the land bank around a diverse market, the possibility is increased that more valuable properties conveyed to private ownership through a land bank will generate revenues to be used in managing and improving the most difficult properties. This internal subsidy is founded on the notion that a land bank is better positioned than a public auction to convert valuable properties to productive use, and can utilize earnings from land sales to rehabilitate, clean, board, or even bulldoze other properties in worse condition.

*Connect the land bank to the tax collection and foreclosure system.* Tax collection is the principal interaction with abandoned properties – as owners typically do not pay taxes on abandoned property. The effective use of the governments’ superior tax lien can be the primary mechanism of acquisition of the properties. Further, most tax systems privatize profits through penalties and interest earned by tax lien investors, or from equity derived from more valuable properties that are foreclosed. The land bank model captures that revenue stream and utilizes those financial resources to manage the properties held by the land bank. In both scenarios, the property would be lost to the owner – this ‘improved’ system simply places that process and the earnings derived from the collection process under the control of the community, not out-of-state speculators. It is also imperative that this system also include a strong foreclosure prevention effort so that parcels sold through

the land bank do not again become vacated and abandoned properties.

*Ensure a land bank is policy driven.* A land bank should be transparent in policies and transactions. The public is often suspicious of any government role in the real estate market. In the case of most of these properties, of course, the government already owns the property as a result of tax foreclosure. Still, it is critical that the operation of a land bank be fair and predictable. To build public confidence in a land bank, well-considered policies and priorities should be adopted that govern to whom – and for what purpose – properties are sold or transferred. Terms and pricing policy must be clear and uniform, as well.

*Emphasize community engagement and participation.* The land held by land banks is typically scattered among neighborhoods throughout the community. Thus, the land bank has neighbors, and the most successful land banks engage those neighbors on the policies and practices that determine the outcomes for those neighborhoods. Public acceptance of the hard choices that will inevitably need to be made regarding property held by a land bank is much more likely when those neighbors have a formal voice in policy and operations. By formalizing that process, through regular neighborhood meetings, and in some cases with the formation of a community advisory council, land banks get public input on terms that make that input more meaningful than if that input comes in the form of uninvited anger or frustration with land use decisions.

## OWNERSHIP AND MANAGEMENT OF LAND BANKS

Land banking activities can be carried out by existing public entities or newly created government-affiliated and/or non-profit corporations, depending on state law. In some communities, existing redevelopment authorities can and should serve a modified land banking function, and in others, these efforts could be managed by the local housing and community development department. Often, however, redevelopment authorities tend to be narrowly focused in a specific geographic area or on a specific redevelopment project, and they often lack the flexibility to acquire surplus properties wherever they may exist or convert individual properties into productive use as new single family residences. Similarly, many housing and community development departments lack capacity for property management and are constrained by state and local laws. When existing authorities and departments lack the legal or managerial capacity to specialize in a

---

<sup>6</sup> D. Kildee and A. Hovey, “Land Banking 101: What is a Land Bank,” The Center for Community Progress, September 2010.

land banking program, the community may wish to consider developing a new, independent entity to manage the land bank.<sup>7</sup>

## LAND BANKING IN TENNESSEE<sup>8</sup>

Tennessee law allows for a limited number of cities and counties to operate land banks across the state. Thus far, only three communities have established these land banks. Each has shown a willingness to link available parcels to appropriate affordable housing efforts in their areas. Additionally, with advent of the Tennessee Housing Development Agency's (THDA) Blight Elimination Program, land banks may see a larger push to facilitate affordable housing creation on available land. The new Blight Elimination Program provides loans to cover the costs of the demolition and greening of a blighted property. There are forgivable loan provision incentives in place for land that is repurposed for affordable housing within the three year loan period. In this way, there is intent to reduce the costs of clearing blighted properties and in turn, to strengthen the link between available land in land banks and community affordable housing needs.

**Memphis & Shelby County, TN.** The Shelby County Land Bank is the recipient of properties obtained by Shelby County after a tax sale has been conducted and after the subsequent redemption period has expired. Currently, the Shelby County Land Bank has over 4,509 properties available of which 462 have residential or commercial improvements thereon. The majority of these properties are located in Memphis, however, there are a number of parcels in other jurisdictions within Shelby County. Although most of these properties were acquired by Shelby County through delinquent taxes, a number of properties were initially purchased by the County for a particular public purpose but have now become surplus. In addition to Shelby County Land Bank's property disposal responsibilities, it functions as the County's real estate arm providing services associated with leasing,

acquisition of property and property rights, easement grants and releases, and encroachment control.

In addition to the Shelby County Land Bank, the Memphis City Council approved a resolution to create the Blight Authority of Memphis (BAM) in September of 2015.<sup>9</sup> In contrast to the Shelby County Land Bank, BAM is a non-profit organization that functions only within Memphis city limits. Since BAM is a non-profit entity, it is also eligible to apply for funding through the THDA Blight Elimination Program. The THDA Blight Elimination Program would provide BAM with the funding to go one step beyond simply acquiring delinquent properties to tear down blighted structures to accelerate the process for other community development opportunities such as greenspace or affordable housing.<sup>10</sup>

**Chattanooga, TN.** In February 2015, the Chattanooga City Council approved the creation of the Chattanooga Land Bank Authority. The publicly funded non-profit will utilize the traditional land bank model in acquiring, holding, then releasing vacant and distressed properties back into productive use. The Chattanooga Land Bank Authority will not have powers of eminent domain or taxation. The entity will be governed by a five-member board; two board appointments will be made by the city mayor and the mayor of Hamilton County, the Chattanooga Housing Authority, and the City Council will each appoint one member. The board's records and meetings will be open to the public and the Chattanooga Department of Economic and Community Development will provide administrative support. The organization will be able to accept land donations inside the city limits, borrow money, and determine how the acquired properties will be utilized.<sup>11</sup> There are plans to promote the selling of the Land Bank's properties to households earning no more than 120 percent of the area median income and the city will place lien restrictions on such properties to ensure long-term affordability.

**Oak Ridge, TN.** The Oak Ridge Land Bank Corporation, located 25 miles outside of Knoxville, was the first land

<sup>7</sup> Alexander, Frank, "Land Banking as Metropolitan Policy," Metropolitan Policy Program at Brookings, October 2008.

<sup>8</sup> The following local governments meet the definition of "local government" in TCA Section 13-30-103(4), so they each are authorized to create a "corporation" under TCA Section 13-30-101 et seq. to function as a land bank: Chattanooga, Clinton, East Ridge, Etowah, Johnson City, Knoxville, Lenoir City, Memphis, Mt. Juliet, Oak Ridge, Red Bank, Sevierville, Sweetwater, Whitwell, Blount County, Sevier County, Nashville/Davidson County, Lynchburg/Moore County, Hartsville/Trousdale County, and Kingsport. The local governments qualifying under TCA Section 13-30-103(B), (C), and (E) can change depending on whether additional counties move into the population ranges specified in the statute based on the 2020 census. The counties listed above that qualify based on population under the 2010 census will

not fall off of the list. It is possible that legislation will broaden or narrow applicability by amending this statute.

<sup>9</sup> Moore, Linda, "Memphis City Council approves creation of nonprofit land bank to fight blight," The Commercial Appeal, <http://www.commercialappeal.com/news/government/county/memphis-city-council-considers-creating-nonprofit-land-bank-23aa06cc-5ee2-1f36-e053-0100007f8f03-339967611.html>, September 11, 2015.

<sup>10</sup> Corbet, Michelle, "Blight Authority looking at condemned property," Memphis Business Journal, <http://www.bizjournals.com/memphis/news/2016/01/22/blight-authority-looking-at-condemned-property.html>, January 22, 2016.

<sup>11</sup> Morton, David, "Chattanooga starting land bank program," Nooga.com, <http://nooga.com/169135/chattanooga-starting-land-bank-program/>, February 18, 2015

bank in Tennessee. Established in 2013, the independent non-profit works to promote owner-occupied housing, convert emptied small lots to increase the size of neighboring lots, create open space for mini-parks and gardens, develop additional off-street parking, and return property to productive tax-paying status by assembling tracts of land for residential and commercial development.<sup>12</sup> The Oak Ridge Land Bank plans to utilize its resources to support the development of affordable housing through the donation of vacant property to local affordable housing non-profits organizations.

The Board of Directors for the Oak Ridge Land Bank Corporation consists of seven directors, one of which is a member of City Council. All directors must be residents of Oak Ridge and preference may be given for persons in banking, real estate, and legal fields.<sup>13</sup> To date, the Oak Ridge Land bank Corporation does not have dedicated funding but is exploring opportunities to securing sustained funding sources.

### EXAMPLES OF OUT OF STATE LAND BANKS

As of January 2015, there are approximately 120 land banks and land-banking programs, nationwide.<sup>14</sup> Below are two examples of out of state land banking programs.

*Genesee County, MI.* Arguably the most well-known and active land bank in the country, the Genesee County Land Bank Authority, was the first county land bank established in Michigan. The Genesee County Land Bank was initially created to acquire tax-foreclosed properties throughout the County in order to interrupt a system of tax foreclosure that had been exacerbating the vacant property problem in and around the City of Flint. Since its inception, the land bank has demonstrated a commitment to this primary function, then builds on that model through programming that consists of sales, development, rental property management, land-use planning, side lot, 'adopt-a-lot,' urban gardening and demolition.<sup>15</sup> To support the Land Bank's efforts, the entity receives all tax-foreclosed properties in Genesee County that do not sell at auction, regardless of condition or location, annually. The Genesee County Land Bank has acquired over 10,000 structures and properties since its inception, most of which are scattered throughout Genesee County but with a higher concentration in the City of Flint. Their most recent annual report stated that in fiscal year 2014 –

2015, 943 properties were sold, generating \$4.2 million in gross revenue. Approximately half of these sales were houses sold to first-time homebuyers, 269 of these properties were vacant lots sold to adjacent homeowners or businesses, and the remainder were commercial and cash sales of structures.<sup>16</sup>

*Fulton County, GA.* The Atlanta Land Bank was established in 1991 and is an intergovernmental agreement between Fulton County and the City of Atlanta. As Georgia's first land bank, the entity was originally under the leadership of the City's Office of Housing Director and the County's Land Department Director. The land bank's location would shift between several offices within both city and county governments. In 1994, a full-time director was hired and the land bank moved to its own dedicated space. Until 2008, the Atlanta Land Bank was almost exclusively geared toward fostering affordable housing projects. In 2008, however, the City of Atlanta was experiencing distress and disinvestment in specific neighborhoods that required a more involved approach. In 2008, the Atlanta Land Bank decided to strengthen its relationships with non-profit partners and local government agencies and created the Land Bank Depository Agreement Program, the first program of its kind in the country. This program allows non-profit entities to bank their properties tax free for up to three years, giving the non-profit time to align the necessary financing and establish a development plan. While the Atlanta Land Bank holds a property, the non-profit is responsible for the cost of routine maintenance. As of 2014, approximately 200 of the 300 properties in the land bank's inventory are being held under this program for eight different non-profits and Invest Atlanta, the city's redevelopment authority.

### FURTHER CONSIDERATIONS FOR LAND BANKS

A land bank's role is to not only hold property, but to also provide a variety of meaningful options to bring properties back to public use. A successful land bank is mindful of how the vacant lots are treated to ensure that they support housing market growth, rather than holding back from participating in the general housing market. One of the greatest benefits of this model is that land banks provide multiple paths to increase the likelihood of a positive outcome. When developing a land bank program, a locality should consider the whole range of

<sup>12</sup> Hicks, Heather, "11 of Land Bank's 12 Oak Ridge houses demolished," The Oak Ridger, <http://www.oakridger.com/article/20140529/News/140529840>, May 29, 2014

<sup>13</sup> <http://www.oakridgetn.gov/content.aspx?article=2911>

<sup>14</sup> Slavin, Peter, "In 13 States, Land Banks Stabilizing Weakened Municipalities," Urban Land, <http://urbanland.uli.org/economy-markets-trends/13-states-land-banks-stabilizing-weakened-municipalities/>

<sup>15</sup> D. Kildee and A. Hovey, "Land Banking 101: What is a Land Bank," The Center for Community Progress, September 2010.

<sup>16</sup> Genesee County Land Bank Authority, "Genesee County Land Bank 2015 Annual Review," 2015.

programs and functions that a land bank may engage in and examine the entire framework of how the government interacts with the weak-market properties.<sup>17</sup> The goal should be to put together an initiative that is beyond the life of the community's neighborhood blight crisis.

Land banking needs to be customized to the local conditions of the community. In some cases, there are weak market conditions and weak non-profit capacity while in other instances, a land bank can support a strong, growing market in fostering workforce housing and making sure that lower-income residents can participate in the growth of a neighborhood. Regardless of the situation, it is important that an entity gathers quantitative data, including the number, location, and condition of vacant properties, and the costs they impose on governments and individuals. The proposed land bank group should also identify the legal barriers to the creation of land banks so that statutes can best address them. Most importantly, if an entity is using the land bank model to support the development of affordable housing, be sure that the strategic plan for the community is balancing affordable housing between areas in need of investment and areas of high opportunity. It is important that jurisdictions do not unintentionally perpetuate concentrated areas of poverty by way of land banking activities. This means that the land bank should negotiate sales based not only on the highest bid but also on the outcome that most closely aligns with what's best for the entire community.

Land banks can be an impactful tool in Tennessee for eliminating blight and promoting the development of affordable housing. This is also a valuable model that stretches beyond housing and can spur economic development, add green space in areas with limited recreational space, and support a community's efforts to bring resources to a neighborhood such as a grocery store or other commercial space.

---

<sup>17</sup> Smart Growth America, "State Policy Toolkit: State Land Bank Enabling Legislation", September 2011.

## FURTHER READING

Alexander, Frank, "Land Banking as Metropolitan Policy," Metropolitan Policy Program at Brookings, October 2008.

Burlington Associates in Community Development LLC, "Land Banking vs. Land Trusting: A Comparison of Complementary Strategies", 2012.

Corbet, Michelle, "Blight Authority looking at condemned property," Memphis Business Journal, <http://www.bizjournals.com/memphis/news/2016/01/22/blight-authority-looking-at-condemned-property.html>, January 22, 2016.

D. Kildee and A. Hovey, "Land Banking 101: What is a Land Bank," The Center for Community Progress, September 2010.

Genesee County Land Bank Authority, "Genesee County Land Bank 2015 Annual Review," 2015.

Hicks, Heather, "11 of Land Bank's 12 Oak Ridge houses demolished," The Oak Ridger, <http://www.oakridger.com/article/20140529/News/140529840>, May 29, 2014

Moore, Linda, "Memphis City Council approves creation of nonprofit land bank to fight blight," The Commercial Appeal, <http://www.commercialappeal.com/news/government/courty/memphis-city-council-considers-creating-nonprofit-land-bank-23aa06cc-5ee2-1f36-e053-0100007f8f03-339967611.html>, September 11, 2015.

Morton, David, "Chattanooga starting land bank program," Nooga.com,

<http://nooga.com/169135/chattanooga-starting-land-bank-program/>, February 18, 2015

Slavin, Peter, "In 13 States, Land Banks Stabilizing Weakened Municipalities," Urban Land, <http://urbanland.uli.org/economy-markets-trends/13-states-land-banks-stabilizing-weakened-municipalities/>

Smart Growth America, "State Policy Toolkit: State Land Bank Enabling Legislation", September 2011.

<http://www.oakridgetn.gov/content.aspx?article=291>

For more information on the Tennessee State Code, see: <http://law.justia.com/codes/tennessee/2014/title-13/chapter-30>

For more information about the Land Bank definition: <http://www.smartgrowthamerica.org/issues/revitalization/land-banking/>

Frequently asked questions about Land Banking: <http://www.communityprogress.net/land-banking-faq-pages-449.php>

---

## ABOUT THDA

As the State's housing finance agency, the Tennessee Housing Development Agency (THDA) is a self-sufficient, independently funded, publicly accountable entity of the State of Tennessee. THDA's mission is to ensure that every Tennessean has access to safe, sound, affordable housing opportunities. More information about THDA programs can be found online at [www.thda.org](http://www.thda.org).



502 Deaderick St., Third Floor  
Nashville, TN 37243-0900  
(615) 815-2200