

Neighborhood Stabilization & Land Banking



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The Housing and Economic Recovery Act of 2008, with its much-needed Neighborhood Stabilization Program, is the first federal recognition of the severe costs borne by neighborhoods and local governments when properties are vacant or abandoned.¹ For the first time, Congress has appropriated funds for the acquisition, management, and disposition of such properties—at the same time recognizing the important role of a tool called land banking. Today, as more communities deal with foreclosures, they are increasingly likely to make use of land banking.

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Land Banks and the Housing and Economic Recovery Act of 2008

The statutory provision authorizing the creation of what is known today as the Neighborhood Stabilization Program is found in section 2301 of the Housing and Economic Recovery Act of 2008, Pub. L. 110-298. That statute says in section 2301(c) (3) that “amounts made available under this section may be used to ... (c) establish land banks for homes that have been foreclosed upon.” In February 2009, Congress enacted the American Recovery and Reinvestment Act (ARRA), which allocated an additional \$2 billion for NSP purposes. See American Recovery and Reinvestment Act, 111 Pub. L. 5 (2009).*

The Neighborhood Stabilization Program regulations issued by HUD on September 29, 2008, provide the following description of a land bank: “A land bank is a governmental or nongovernmental entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For purposes of the NSP program, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been abandoned or foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and dispose of the land-banked properties. If the land bank is a governmental entity, it may also maintain abandoned or foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service.”

With respect to the 10-year provision, the HUD regulations state the following: “An NSP-assisted property may not be held in a land bank for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.”

* Further, the ARRA amended section 2301(c)(3)(C) of HERA to read, “establish and operate land banks for homes and residential properties that have been foreclosed upon.” This expanded statutory language will allow land banks to use NSP funds for operating costs associated with the land bank as well as allowing land banks to use NSP funds to purchase and maintain residential properties.

Land-Banking Basics

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 conservation or affordable housing. It is more like a bank into which one deposits valuables until they are needed.

Land banking is useful because markets for land rarely, if ever, operate with market efficiency. By definition, a parcel of land is a commodity fixed in location and hence not interchangeable with similar products. As a result, when supply and demand fluctuate, land prices and consumption do not adapt as they would for other products.

In the current economic climate, with demand for housing and new development receding, some previously strong and vibrant neighborhoods are being severely stressed. Land banking can allow regions, states, and municipalities to remove

abandoned properties from the market and either convert them into new, productive uses or hold them in reserve for long-term strategic planning. The idea is not to replace or supplant either the open market or land-use planning but to step in when there is a failure of market demand, acquiring abandoned inventory and making it available for other land-use planning.

First proposed as a form of urban planning in the 1960s, the concept has taken root in several metropolitan communities in the last 25 years. As with other new approaches to land use and planning, some efforts have been more successful than others. But all land-banking initiatives share the ability to address inefficiencies in real estate markets and the potential to bring together federal, state, and local policies to build stronger communities.

Community Goals

Communities that employ land banking do not do so with the idea of holding a large public inventory of land. Their most common goal is to convey properties to not-for-profit entities for the development of affordable housing, including both rental and homeownership programs. The second most common goal is to foster economic redevelopment by conveying properties to for-profit and not-for-profit entities that will create mixed-use developments or mixed-income housing.

Land bank proponents are well aware that simply holding vacant properties achieves little and that getting them reoccupied and returned to the tax rolls expeditiously is critical. There are only two exceptions. The first occurs when there is no market at all for development or reuse and the property must be removed from the market indefinitely (often demolition and environmental clean-up are needed). The second kicks in when there are longer-term strategic purposes, such as future parks and green spaces or affordable housing in a market where gentrification is causing concern.

Strengthening Neighborhoods

During the last quarter of the 20th century, the cities of St. Louis, Cleveland, Louisville, Atlanta, and Flint, Michigan, moved to create public authorities focusing exclusively on land-banking activities. Those cities' land banks emphasize acquiring abandoned tax-delinquent properties and converting them into new, productive uses. For example, the Genesee County Land Bank in Flint acquires an average of 1,000 abandoned properties each year and has been the catalyst for increasing property values by more than \$100 million. It has developed hundreds of units of affordable housing, has renovated major commercial buildings, and has remediated more than 1,000 brownfield properties.

Other local governments, whether large industrial cities or small, rural communities, also face property abandonment. Some areas were once paradigms of thriving economic investment and hot real estate markets that now suddenly have large inventories of vacant and foreclosed properties—with the accompanying economic and social costs. Local governments worry that they lack the power to address the new, multijurisdictional challenges or to access the capital necessary for acquiring, managing, and controlling a large number of

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properties. An added concern is the possibility that vacant real estate will attract vandalism and will lower property values and create neighborhood instability.

Fortunately, the new Neighborhood Stabilization Program provides funding that can be used to establish land banks for homes that have been foreclosed upon—and the resources to acquire the homes and rehabilitate or demolish them. Moreover, although the NSP contains an unusually tight time frame (18 months) for spending most of the funding, land banks are exempted and may hold properties for up to 10 years. (See “Land Banks and the Housing and Economic Recovery Act of 2008.”)

Similarity to Banks

Land banks 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. The biggest difference might be that whereas traditional banking often focuses on national and international markets, land banking specializes in neighborhood and community stability and land-use planning.

Asset Banking

Land banking engages in asset banking by acquiring inventories of real property, primarily from five sources: (1) tax delinquencies and tax foreclosures; (2) excess residential real estate foreclosures; (3) foreclosure of government liens arising from housing and building code violations; (4) direct market purchases; and (5) third parties' “deposits” of properties to be held pending redevelopment. A sixth source is property that has been identified as holding potential for development (over a two- to five-year time horizon) but for which there is no current market demand.

A deposit-based program can permit a governmental or not-for-profit entity to transfer ownership of property to the land bank, reserving the right to “withdraw” the property at any time after paying the land bank for holding costs.

Secondary Markets

Land banking engages in the equivalent of property-market stabilization by creating the functional equivalent of a publicly controlled secondary market. Its ability to acquire inventory when land has no readily available private market lets it address the contraction and expansion of property “liquidity” relative to demand. Regulation of private development is not affected, nor are traditional zoning initiatives and land-use planning.

Capital Reserves

Land banking also can serve the functional equivalent of maintaining “capital reserves.” Land-banking programs maintain real property reserves to respond to a community's future strategic needs, such as affordable housing, green space, and the like.

Regulatory Aspects

As part of a public agency, or as a separate public authority, a land-banking program is, and should be, required to exercise its authority consistent with the common good. All real property transactions must fall within clearly stated purposes and priorities on land use. These purposes and priorities are established by state legislatures, by intergovernmental contracts, or by the local governments that create the programs.

Looking Ahead

Land banking has come of age. The time for scaling it up is now, as communities nationwide struggle with the impact of record numbers of foreclosures and as funding is made available for the first time from Washington.

Consider all that land banks can do. They can become a kind of depository institution for surplus lands. They can engage in asset banking and eliminate the danger of abandoned land becoming a liability. By temporarily reducing the supply and returning it to the market only when private demand returns, they can engage in real estate market stabilization when supply suddenly exceeds demand. They can create capital reserves of property pending future development capacity or public need. Finally, they can regulate the short- and

long-term use of the surplus properties they acquire, ensuring that they become assets for communities and not liabilities.

Land banking's ultimate objective is to provide a multijurisdictional response to inefficient land markets and to reallocate land for inclusionary, sustainable purposes. Forty years ago, advocates urged its adoption as part of federal housing and urban development policy. The need is greater than ever, and the opportunity is here.

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Endnote

¹ This article is drawn from Frank S. Alexander, *Land Banking as Metropolitan Policy* (Washington, DC: Brookings Institution, 2008); http://www.brookings.edu/papers/2008/1028_mortgage_crisis_alexander.aspx.

