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HOT TOPIC ALERT

LAND BANKS

Land banks are a comparatively new property tool that originated in the 1970s in the United States. They have grown in use significantly since then, with a particularly vibrant period of growth beginning around the time of the great recession in 2007. Land banks assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.

Today, it is 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 have significant, largely positive impacts on the real estate markets and communities where they operate.

NATIONAL ASSOCIATION OF REALTORS®

In this Hot Topic Alert, we address what land banks are, how they operate, their impact on the real estate markets and communities, the current legislative environment, NAR's position on them, and provide examples of current land banks.

WHAT IS A LAND BANK?

Land banks are a popular urban redevelopment tool used by state and local governments and non-profits. The idea behind them is a simple one: a government agency or nonprofit entity is given the authority to acquire, manage, and dispose of surplus properties. The "surplus" may include abandoned, foreclosed, or tax-forfeited properties. The land bank will temporarily hold the land and then turn it to a productive use such as affordable housing, green space, or community-focused commercial buildings.

Land banks date back to 1971 when the first one, the St. Louis Land Utilization Authority, was established. Early land banks focused on tax-forfeited property, seeking ways return that property to a productive use. Land banks gained popularity in the early years of the 21st century, and continue to draw attention. They are typically created at the local level, and generally require state enabling legislation to allow the local government to establish them.

At the federal level, support for land banks was shown in 2008, when Congress appropriated $4 billion to redevelop abandoned and foreclosed properties through the Housing and Economic Recovery Act of 2008. The appropriation came to be known as the Neighborhood Stabilization Program (NSP). NSP funds, which must be used to help targeted to low- and moderate-income persons, may be used to establish land banking programs. More recently, in 2020, The Land Bank Network Act was proposed in the House. The Act would provide more funding and resources for land banks across the United States through a national non-profit. The Act was referred to the House Financial Services Committee but as of the date of this Alert no additional action has been taken.

Land banks can provide a benefit to the market. Vacant real estate, especially real estate that has been vacant for some period of time, depresses real estate values in a neighborhood. One study concludes that the value of property is lowered by up to 2.7% for each vacant property within 500 feet. Turning vacant buildings into occupied properties helps everyone – and there is evidence to support the effectiveness of land banks. Land banks can thus address issues of blight while also allowing communities to plan for long term growth.

HOW LAND BANKS OPERATE

Land banks are typically created by local ordinance under authority granted by state enabling legislation. Due to the differences in enabling statutes and local laws, and in the availability of funding, the governance, financing, and authority of land banks vary greatly.

Land banks are independent public legal corporations or non-profit entities with some type of governing board such as a board of directors or board of commissioners. The form and structure of individual banks are matters generally determined by state land bank enabling legislation and state statutes on intergovernmental cooperation. Enabling legislation tends to give 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 will generally outline any key details that are not set out by statute. Additionally, if a land bank is a public or non-profit corporation, corporate formalities, such as articles of incorporation and bylaws, are required.

Members of a land trust's governing board generally serve without compensation. They may be elected officials, or local government employees. It is a common requirement that the board members reside in one of the localities 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.

Financing for land banks may come from different sources. 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. Common sources of further financing are the operations of the land bank itself, local, state or federal funding or grants, and future tax revenues.

Land banks have the power granted to them in enabling statutes and governing documents. Thus, there is again significant variation among land banks' powers. However, at a minimum, land bank authority generally includes the power to the ability to acquire property through tax foreclosure; hold land tax-free, clear title and extinguish back taxes, temporarily lead property; and consider non-monetary consideration (e.g. community need) when negotiating a property's sale. One notable power that landbanks do not have is the power of eminent domain.

It is widely agreed that local stakeholder engagement is key for successful land banks. As aptly explained by the Center for Community Progress, "There is no substitute for engaged community stakeholders who understand and share a community's history and goals – and whose lives are most directly impacted by a land bank's work." Effective community stakeholder engagement is tailored to the particular locale. It can take many forms including neighborhood meetings, local partnerships, and community advisory boards.

Community goals must be considered when developing land bank strategies for both acquisition and disposition of properties. Typically, land banks adopt one of two strategies: "fight the blight," or the "midwife the market" role. A "fight the blight" strategy targets specific blighted properties for rehabilitation and reuse. The "midwife" role has the land bank proactively targeting properties with a potential for neighborhood-stabilizing redevelopment.

There are different ways land banks can acquire property. The most common is through the tax foreclosure process. The exact mechanism varies by location, and by the state and local laws authorizing the bank. Depending on the jurisdiction, land banks may automatically acquire properties not sold at tax auction at the statutorily minimum prices. They may get to choose which unsold properties to acquire through the tax foreclosure process, or they may obtain "super-bid" powers to acquire property before it goes to foreclosure auction. Land banks may also receive property through donations from private or governmental sources. Additionally, land banks may purchase property directly.

Land banks only hold property temporarily. Once acquired, the land bank manages the property and begins working towards disposition of the property for an improved use. 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. When disposing of properties, land banks have important powers and options. They may sell properties to individuals or to development and management companies. They may sell properties individually or in bundles. Land banks have the power to restrict the purchasers and acceptable uses of properties it sells. For example, a bank may stipulate that the property being sold must be used to develop affordable housing. The land banks goals and nature of the property will determine how property is disposed of.

It is important to note that subject to a few exceptions, land banks are distinguishable from redevelopment authorities. Perhaps the most important distinction is that redevelopment authorities usually have the power of eminent domain, and the power to levy taxes. Land banks do not have either of these powers, and they typically do not undertake the development of properties themselves. Instead, they typically hold and manage properties for a time and then sell them to new owners.

CURRENT STATE OF LAND BANKS

Overall, land banks in the United States are thriving. The trend towards more widespread utilization of land banks and governing statutes continues. As of the date of this Hot Topic Alert, there are approximately 250 land banks in the United States across 25 states. Sixteen states[1] have enacted comprehensive land bank legislation.

Nebraska recently passed notable land bank legislation. The state has allowed land banks in two counties since 2013 but recently passed a law that expands the use of land banks. The law authorizes the two largest cities in the state – Omaha and Lincoln - to create a municipal land bank. The law also allows any municipality in Nebraska to join an existing land bank.

Peoria, Illinois has recently joined the list of cities with land banks. In May of 2021, the Peoria City Council approved the creation of the City of Peoria Land Bank. The approval made it the first city run land bank in Illinois. and the legislation creating the land bank recognizes the importance of stakeholder buy-in. The land bank's board must include a local real estate licensee and also neighborhood representatives. The city hopes the new land bank will help it address the current large number of vacant and abandoned properties.

New York law enacted a land bank authorization law in 2011. The New York Land Bank Association reports that there are 26 municipal, county, and regional land banks in the state. Multiple proposals have been made for a New York City land bank, to be a mechanism for addressing the affordable housing crisis in that city, as well as being a more effective way to utilize distressed properties. The New York City idea has not yet been implemented but it is being considered seriously. In 2016, the City Comptroller put out a report on the possibility of a New York City land bank. The report found, among other things found that a land bank could help support development of over 53,000 units of affordable housing, primarily in Queens, Brooklyn, and the Bronx..

[1] Alabama, Connecticut, Delaware, Georgia, Indiana, Maryland, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia

No two land banks are the same, and no two operate in exactly the same manner. However, it is useful to review some examples of case studies demonstrating the array of possible approaches. Philadelphia, for one, provides an example of how technology and information systems can effectively be used to support the repurposing and restoration of abandoned or tax-delinquent property. The Land Bank uses Geographic Information System (GIS) mapping to prioritize properties and a "Decision Support Model" to use data to prioritize and reach decisions regarding properties. This data is also used to create a searchable map of properties that are available, and to support the Land Bank's mission of developing a strategic plan for vacant properties in the city.

Richmond, Virginia provides another example of a unique approach. In 2018, the city adopted an ordinance designating the Maggie Walker Land Trust as the land bank for Richmond. This was the first time an existing land trust in the US had been given the authority to operate also as a land bank. Currently, this is the only combined land trust and land bank, which the trust explains gives it "unique advantages." as the advantages include being "able to encourage permanent affordability by offering to steward land in perpetuity while homes are occupied."

The Lucas County Land Bank was formed in 2010 as a non-profit that was Ohio's second county land bank. Today, it is often considered one of the country's top land banks and looked to for guidance. Another notable county land bank is the Albany County Land Bank Corporation. The land bank recognized that financing is an important component of successful land bank efforts. To help expand access, the land bank recently partnered with a regional Community Development Financial Institution ("CDFI") to help provide financing to first-time buyers, African Americans, and other underserved populations.

The Land Bank of Kansas City has also been recognized for its innovative programs. It recently offered more than 100 homes for just $1 in order to help provide housing for the city's homeless and housing insecure population.

IMPACT OF LAND BANKS ON THE REAL ESTATE MARKET

Land banks impact the real estate market in multiple, overwhelmingly positive ways. One of the most notable benefits of land banks is that they can simultaneously improve property values and provide greater access to affordable housing, two goals that are often difficult to achieve at the same time.

On the property value side, a reduction in the number of blighted and vacant homes, and fewer of the issues associated with such properties, has been shown to increase and protect all of the property values in the area. For example, a 2018 report by the Greater Ohio Policy Center indicated that the joint efforts of two Ohio land banks protected approximately $90 million in nearby home values over a 5 year period. The efforts of the two land banks also helped to lower significantly the number of nuisance abatements needed for vacant or abandoned properties. These results are consistent with an earlier study out of Cuyahoga County, Ohio ,which showed that homes within 500 feet of land bank-owned properties sold at prices approximately 5% higher than similar homes located elsewhere. These results are consistent withthe logical fact homes next to vacant or blighted properties are less in demand that comparable homes that aren't close to vacant or blighted properties.

As to increasing affordable housing, this is often one of land bank's key goals which can achieved in multiple ways – though, land banks must consider their authority under enabling legislation. For example, land banks can create disposition policies that favor affordable housing such as prioritizing ales to non-profits or even for profit developers that include affordable housing in their development plans. Or as another example, land banks can sell to individuals and families at below market prices, and partner with other organizations to help purchasers obtain financing for the purchase.

Land banks can also aid in decreasing a region's real-estate-owned ("REO") properties. Historically, municipalities have faced a number of challenges in acquiring REO properties including difficulty making bulk deals because of fragmented ownership, trouble getting lenders to the negotiating table, and difficulty competing with private purchasers who want to buy and hold properties. Land banks are better positioned than municipalities to acquire REO and compete with private parties. Land banks advantage is tied in large part to land bank's larger geographic scope as compared to most municipalities, their broad powers to take action on acquired property, and their revenue stream.

OTHER IMPACTS OF LAND BANKS

In addition to their impact on real estate markets, land banks have other largely positive impacts on a community. These positive impacts include decreased crime, lower public safety costs, abatement of public nuisances, increased property tax revenue, and encouragement of further economic development.

The removal of vacant and blighted properties has been linked to the decrease in crime associated with l vacant structures. Blocks with easily accessible vacant structures may experience crime rates twice as high as similar areas without accessible vacant buildings. 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. As has been discussed, land banks reduce blighted and vacant properties. That in turn helps to lower crime and thus reduces public safety costs. The public nuisances inherent in the blighted and vacant properties are also reduced.

The work of land banks also helps to increase property tax revenues in an area. Vacant property generally produces no property tax income, and that is 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 value of surrounding properties which can further reduce tax revenues. By returning vacant property to productive use, and consequently returning them to the tax rolls, land banks help bolster public funds.

Land banks are frequently at the forefront of revitalizing areas. Their efforts can often serve as a catalyst for further development and investment in an area. Improved properties create additional revenue that can be reinvested and attract private investors and businesses into, or back into the area. Moreover, many land banks directly develop strategic partnerships for continued revitalization.

NAR POSITION ON LAND BANKS

The National Association of REALTORS® ("NAR") supports the continued use and expansion of land banks. NAR believes that land banks tailored to their localities can revitalize areas while also providing opportunities for expanded affordable housing. Data continues to support this assessment. NAR supports land banks primarily through educational efforts, news updates, and recently, a webinar on Stabilizing and Revitalizing Neighborhoods in the COVID-19 Era that included discussion of land banks.

Local and regional REALTOR® associations also promote education and advocate for land banks when needed. The Richmond Association of REALTORS® (RAR), for example, is particularly involved in affordable house and land bank issues. It created its own affordable housing nonprofit and in 2016, joined other nonprofits in founding the Maggie Walker Community Land Trust (MWCLT). The MWCLT, named for the first woman of color to establish a bank in the United States, operates a land trust as well as being the land bank for the City of Richmond and for Chesterfield and Henrico Counties. The land trust builds homes and sells them to qualified buyers while retaining ownership of the land on which the houses are built.

OTHER ORGANIZATIONS WORKING ON LAND BANK ISSUES

Countless organizations are involved in land bank issues including, of course, the hundreds of land banks themselves. Two notable organizations that help publicize and explain land bank issues are the Center for Community Progress and Local Housing Solutions. Both provide excellent resources on their websites for REALTORS® and anyone else looking to learn more.

CONCLUSION

Land bank creation and use continues trend upward and seem to offer a promising opportunity for tailored localized solutions to local issues, chief among them: housing affordability and community revitalization. In order to serve their clients and engage with their communities, REALTORS® should stay apprised of the state of land banks and associated opportunities in their locale.

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