

# Understanding Land Banking Options

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Development Summit

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# Please, Don't Blame Our Employer

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# Purposes and Functions of Community Development at the Fed

- Community Development focuses upon Fourth District issues related to:
  - Community Reinvestment
  - Economic Development
  - Fair Lending
- Supports these issues through:
  - Identifying Best Practices
  - Building Partnerships
  - Research
  - Providing Training & Technical Assistance

# Overview

1. A Brief History of Land Banking
2. The Modern Problem of Vacancy & Abandonment (and Passive Land Bank Limitations)
3. Active Land Bank Powers & Immunities (and Some Examples of Success)

# What is a Land Bank?

- Policy tool to address distressed housing
- Traditionally a government program or entity
- Ohio's modern Land Banks are non-profit corporations, part government and part private
- Converts vacant, abandoned & tax-delinquent property to productive use
  - Acquisition
  - Demolition & deconstruction
  - Rehabilitation
  - Development/redevelopment

## A Brief History of Land Banking

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## Why Passive Land Banks Were Created

- Municipalities can create Land Reutilization Programs (Passive Land Banks)
- Created in 1976 to address widespread tax delinquency
  - Cleveland experienced significant population decline in the 1970s
  - 11,000 tax-delinquent parcels
  - Many property owners left the jurisdiction
  - Ohio Revised Code § 5722.01 *et seq.*

# A Brief History of Land Banking in Ohio

## Passive Land Bank Powers

- Original powers
  - Tax foreclosure *in rem*, not *in personam*
  - Can receive properties not purchased at two sheriff's sales
- 1988 Legislation
  - Permitted tax abatement on properties held by land banks
  - Created a fund dedicated to finance tax-foreclosures (delinquent real property taxes & assessments)
  - Revised notice requirements for tax-foreclosure
- 2006 Legislation
  - Expedited some tax-foreclosure (Board of Revision hearings)



# The Modern Problem of V&A

## Modern Vacancy & Abandonment in Weak Markets

# The Modern Problem of V&A

## Excess Housing Not Readily Absorbed

- Thousands of vacant and abandoned properties
- Population decline
- Building permits outpace household growth
- Old housing not always fit for new uses
- Foreclosures were problems before the ‘foreclosure crisis’
- Oversupply of Housing

# The Modern Problem of V&A

## Costs of Vacancy & Abandonment

- Indirect costs of vacancy and abandonment fall on neighbors and local governments.
  - Studies show vacant and abandoned structures lower their neighbor's property values
  - Studies show vacant and abandon structures correlate with higher crime rates
  - Vacant and abandoned structures are fire hazards
- Direct Costs of vacancy and abandonment are born by municipalities
  - Maintenance, upkeep, & cleanup
  - Police Department, Fire Department

# The Modern Problem of V&A

## Private Market Impediments

- Vacant & abandoned land is highly undesirable in private markets
  - Tax liens exceed property values
  - Toxic titles
  - Environmental testing or cleanup
  - Redeveloping abandoned housing is cost prohibitive to private parties after looting
- Some private market activity may aggravate the problem
  - Tax lien speculation
  - Unhealthy flipping
  - Mortgage fraud
- But private markets are critical to land bank success!

# The Modern Problem of V&A

## Passive Land Bank Limitations

- Municipal program:
  - less independent and flexible
  - No independent source of funding
  - Local government funds
  - Housing trust funds
- No dedicated staff
- Often unable to strategically address vacant and abandoned property in neighborhoods
  - Often unable to actively pursue specific property due to a lack of funding, control of the tax foreclosure process, or purchases by harmful speculators

# Active Land Bank Powers & Immunities

## Active Land Bank Powers & Immunities: When Passive Land Banking is Insufficient

# Active Land Bank Powers & Immunities

## Special Active Land Bank Powers

### Special Powers Granted to LRCs

- Regional coverage
- Purchase low cost data storage, office space, etc., from counties
- Ability to initiate tax-foreclosure proceedings
- Automatic title cleaning upon transfer
- Can contract with municipalities for property maintenance

# Active Land Bank Powers & Immunities

## Private Sector Active Land Bank Powers

### Traditional Non-Profit Corporate Powers

- Independent operation
- Acquire property through purchase, donation, etc.
- Fee-based maintenance of REO property
- Dispose of property through demolition, deconstruction, sale to responsible developers/homeowners
- Lease property to convert owners into renters



# Active Versus Passive Land Banking

## Active Land Bank Immunities

- Protection from state law liability under ORC § 5722.22
  - Underground storage tank laws
  - Air pollution control laws
  - Solid & hazardous waste & substances laws
  - OH EPA laws & regulations
  - Voluntary action plans, emergency planning, & cessation of regulated operations
  - Water pollution & water conservancy laws
  - Common-law causes of action:
    - *McLaurin v. City of Cleveland*, 1994 WL 50657 (Negligence)

# Active Land Bank Powers & Immunities

## Active Land Bank as Coordination Mechanism

- Allows numerous municipalities to cooperate
  - Independence
  - Information sharing, central repository
  - County-wide triage, demolition & programs
  - Board representation
  - Academic aid (NEO CANDO, Academic Studies)
- E.g. Cuyahoga County's NSP 2 application
  - Land Bank applied on behalf of itself, City, County & Cuyahoga Metropolitan Housing Authority
  - NSP funds awarded competitively, preference based on need, cooperative efforts

# Active Land Bank Powers & Immunities

## Example of Ohio's Land Bank Success

- Opened its doors in June, 2009
- NSP 2 application
  - Consortium awarded \$41MM
  - Largest Recipient in Ohio
- Helping smaller municipalities acquire bank walkaways
  - Cuyahoga County has 60 municipalities
  - Often in need of TA or Acquisition help
  - Vacant property, NSP projects, development strips
- Negotiated deal with Fannie Mae
  - All low-value properties purchased for \$1/each
  - Fannie Contributes \$3500/property that must be demolished

