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Municipal Newsletter

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Land Banks

In many communities in Pennsylvania, blighted and abandoned properties are a pervasive problem. Not only are these sites visually displeasing to residents and visitors alike, these places can become lairs for crime, warrens for vermin, ground zero for illnesses, dangerous playgrounds, causes for decreasing property values, deterrents for possible businesses, losses of revenue and increases of taxes for those who reside in such neighborhoods. But there are tools in which local governments can utilize to combat this predicament, creating a more hospitable, more favorable environment.

The most common means employed is enacting nuisance and similar ordinances, though these are not necessarily effective, cost-effective or beneficial to the community overall. Another remedy to be applied is the fairly new implementation of Land Banks, a governmental entity working solely to return vacant, abandoned, tax-delinquent and foreclosed properties to productive use. On December 24, 2012, Pennsylvania passed enabling legislation (PA Act 153, 68 Pa.C.S.A. §2101 *et seq.*) allowing municipalities to establish public agency land banks. Philadelphia, Dauphin and Westmoreland Counties are currently using such organizations.

Land Banks are special-purpose entities existing for the sole purpose of addressing blighted and unoccupied properties. Land Banks are not a redevelopment authority, zoning or planning body. They may obtain properties by donation, transfer, foreclosure or purchase from municipalities, redevelopment authorities, private owners or tax claim bureaus. Land Banks are authorized to plan, enrich, build, raze, renovate, restore, refurbish, rearrange and otherwise improve real property. Although Land Banks are tax-exempt, they must be maintained in accordance with local law. For example, Land Banks must pay taxes on a property only after its fifth year of continuous lease to a for-profit third party. The usage of such properties may be subject to a set of priority uses as determined by the local government. Basically, Land Banks seek to:

1. Eliminate the harm caused by vacant, abandoned and tax-delinquent properties;
2. Eliminate the barriers to returning properties to pro-

ductive use;

3. Convey properties to new owners for productive use; and
4. Hold properties for future use.

Pursuant to 68 Pa.C.S.A. §2111, Land Banks may be financed, either initially or after they have been established, in either of the following ways:

1. Grants and loans from:
 - a. The municipalities creating the Land Bank;
 - b. The Commonwealth;
 - c. The federal government; and
 - d. Private resources.
2. Payments for services rendered;
3. Rents and leasehold payments;
4. Consideration for disposition of real and personal property;
5. Proceeds of insurance coverage for any losses sustained;
6. Income from investments; and
7. Tax recapture by agreements with the taxing jurisdictions for not more than 50% of real property taxes collected for 5 years after transfer of the property. School district taxes are included only if specifically agreed to by the school district.

Although the enactment of a Land Bank is restricted to counties, cities, boroughs, townships and incorporated towns with populations more than 10,000, two or more municipalities with populations less than 10,000 each may enter into an intergovernmental cooperation agreement to establish and maintain a Land Bank. 68 Pa.C.S.A. §2103. Additionally, school districts may participate in a Land Bank pursuant to an intergovernmental cooperation agreement. Regardless, Land Banks are mostly beneficial for municipalities containing large amounts of long-standing, tax delinquent, deficient properties with violations of the housing and building code.

The creation of the Land Bank is done by ordinance and must specify:

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1. The name of the Land Bank;
 2. The number of the members of the Board (and relative to the initial board of directors), their names, terms and qualifications;
 3. The method for community input regarding the decision-making process;
 4. Policies regarding former owner-occupants who are occupying homes acquired by the Land Bank; and
 5. Additional terms and conditions the Land Bank jurisdiction deems reasonable and necessary for its operations. 68 Pa.C.S.A. §2104.

To guarantee responsibility and transparency of the Land Bank, legislation imposes specific measures and obligations on these entities. The Board of the Land Bank must consist of an odd number of members between 5 and 11; members can be public officials, though one member must be a resident (not a public official or employee) and another member must be an active participant in a civic organization. 68 Pa.C.S.A. §2105 (a) – (b).

To decrease liability and damaging consequences to neighborhoods and local governments, a Land Bank attains and sustains properties for which there is no current demand. The Land Bank clears title to a property and then transfers it to a new owner, sometimes attaching stipulations on use to make sure the property meets local priorities. Land Banks do not have the power of eminent domain and must be established as a public agency. Since Land Banks can contract with current municipal employees, they do not need to have

their own offices or staff.

Typically, a Land Bank seeks to sell vacant properties with some guarantee that the new owner will quickly improve the property. The Land Bank can do this through provisions that return ownership to the Land Bank if the buyer fails to fulfill contractual commitments. The Land Bank may require that title under all conveyances revert to the Land Bank if construction or rehabilitation does not begin within a predetermined number of years of the conveyance. Notwithstanding, Land Banks are generally reluctant to terminate all of the transferee's rights, and courts are not eager to enforce a property forfeiture. Such provisions may also create an obstacle to a buyer attempting to obtain financing to redevelop the property. Other methods to ensure that a buyer invests in the property as promised include development agreements between the Land Bank and the buyer that specify precise commitments about the nature of the expected investment or development and the time frame within which it must occur.

In order to ensure a Land Bank's highest probability for effectiveness, these entities require the support of local elected officials, school boards and the public. Then, the local government's institution of this public agency would be worthwhile in the challenge of removing the threats blighted and vacated properties pose to the community. Still, this is just one tool among many in combating the effects of blight in Pennsylvania neighborhoods.
