Agricultural Land Banking

While most land banking is based on the prospect of urban areas expanding at the expense of rural areas, in various parts of the world agricultural land is expanding at the expense of virgin land. The purchase of virgin land that has been identified as suitable for agriculture because of its climate, topography and soil properties, where the buyer has no intention to work the land himself or lease it out, would be agricultural land banking.

Such lands are often rather far away from existing infrastructure when purchased by the land banking investor, therefore prices being low. The investor anticipates that, because of the area's natural productive potential, an agricultural infrastructure (sufficient roads, specialised contractors, grain storages) will develop, with more land put under cultivation and land values multiplying.

Agricultural land banking is found where large tracts of fertile virgin land still exist, where valuations are low and where legislation allows large land holdings (free hold) by domestic and foreign investors. Typical countries for such investments during recent years have been Argentina, Brazil, Uruguay, Paraguay where land prices appreciated accordingly.

Though the perception that the world's fertile land is a limited and valuable asset is by no means new, it received renewed public and media attention with the global food crisis, when phrases like *peak wheat* or *peak soil* were coined.

Land Banks and Community Land Trusts

Land Banks

Land banks are created by local jurisdictions – usually as a public entity but occasionally as an independent nonprofit –to hold abandoned, vacant, and tax-delinquent properties for future development. Not only does this provide local jurisdictions with land for future development, it also reduces the number of “problem properties” in a community by creating a process for management and disposition. Land banks are a powerful tool for jurisdictions faced with problems from both the hot and cold ends of the housing market spectrum. In hot markets, land banks allow jurisdictions to make development decisions with less concern about the cost of land because they already have a portfolio of parcels ready for development. In cold markets, land banks reduce blight by acquiring abandoned and/or delinquent properties, clearing title, and then putting the properties back into productive use.

The **Center for Community Progress** (CCP), which focuses on the remediation of vacant property, has made land banks a central part of its advocacy efforts.

According to CCP, there are around 120 land banks in operation in the United States. Most of these are found in the states of Michigan, Ohio, and Georgia, though eight other states have passed state-enabling land bank legislation.

In 2015, the Center for Community Progress published the second edition of ***Land Banks and Land Banking*,** a comprehensive guide to the model and the practice. It also includes case studies of notable land banks, a detailed guide on how to create a land bank, and other resources for jurisdictions interested in the strategy.

Advantages of Using a Land Bank - Land banks can be empowered to eliminate outstanding taxes and other public liens

While not all land banks have the authority to clear liens and taxes owed, the ability to do so helps to facilitate transfer to new ownership. For example, the taxes owed on properties that have been in delinquency for a long period of time (plus interest and penalty fees) may exceed the market value of the properties, making their sales to new owners very difficult. And, as some foreclosed properties will likely need to be held for several years until the market recovers, the ability to prevent new taxes from accruing helps to keep down carrying costs.

Land banks can hold properties until such time as they can be reused strategically

Land banks can help communities realize their strategic goals for stabilizing and revitalizing neighborhoods affected by foreclosures by preventing acquisition by speculators and providing a means to manage the available inventory in an orderly fashion. Through the establishment of a land bank, local jurisdictions have a mechanism to remove foreclosed properties from the market, hold them for a period of time and then convey them to qualified buyers when conditions have stabilized.

Disposition policies and powers vary depending on community priorities. Some land banks are set up to hold and manage small properties until they can be assembled into a developable parcel. Depending on local market conditions and management capacity, others dispose of properties as soon as possible after acquisition, even if the parcels are too small to hold more than a single home. Disposition policies can be structured to prioritize the redevelopment of properties as affordable housing or in coordination with other local needs.

Land banks can operate across traditional jurisdictional boundaries

Land banks working outside the constraints of a local government agency or department can be set up as partnerships that bring together multiple levels of government to address problems on a regional basis. One advantage of a regional land bank approach relates to the well-documented “spillover effects” associated with vacant and abandoned properties.

These include depressed values for nearby properties, heightened levels of vandalism and other crime and disruption of municipal services as a result of reduced property tax revenue. Unlike property tax revenue, impacts on property values and crime levels do not adhere to jurisdictional boundaries. A regional land bank helps neighboring communities work together to mitigate the negative impact of foreclosures and vacant properties for all residents. Similarly, interjurisdictional cooperation helps to bolster the capacity of individual municipalities beyond what any one city or suburb may be able to achieve on its own.

An additional benefit of regional cooperation is that this approach may help to facilitate the bulk acquisition of real-estate owned (REO) properties. Communities that have experienced high levels of foreclosures may wish to pursue a bulk approach to acquiring properties, rather than purchasing individual lots on a case-by-case basis. As noted elsewhere in this policy guide, however, bulk purchasing agreements with lenders and servicers may be difficult to negotiate in places that do not have a critical mass of properties owned by one institution. A land bank that spans several jurisdictions may have greater success assembling a large number of foreclosed properties that share common ownership and making a deal.

Land banks can simplify and expedite the disposition of foreclosed properties to new ownership

Cities and other public entities must comply with important requirements when selling or transferring publicly owned property (including foreclosed homes that have been acquired for redevelopment), such as holding a public auction and accepting payment of no less than the fair market value. While these provisions ensure some level of protection and accountability with regard to the use of publicly owned assets, they can also slow the process of moving vacant and abandoned properties back to productive use. Land banks can be set up to overcome these barriers while still maintaining oversight and ensuring all activity is in accordance with local goals. For example, in communities interested in redeveloping foreclosed properties as affordable homes, the local government can give local land banks the authority to accept below-market prices and/or to freely convey the property to nonprofit developers.

An additional advantage of working through a land bank is that all property transfer activities will be consolidated within a single organization. In **Baltimore's** Plan to Create a Land Bank, the authors note that the sale of a property from the city to a private owner "is labor-intensive and involves no fewer than a dozen city actors," including up to seven different departments and committees. In contrast, private purchasers working with land banks will have only one point of contact, which should enable a more streamlined process.

Challenges Involved with Creating a Land Bank

Land banks offer a number of advantages to communities. However, obstacles associated with creating a land bank should be considered.

Land banks are state-chartered bodies and require state-enabling legislation

The establishment of a city, county or interjurisdictional land bank requires not just the cooperation of the participating levels of government, but also approval at the state level. State-level legislation does not create land banks – this step must be completed separately at the state or local level – but rather gives localities the authority to create a land bank, acquire and convey properties and exercise other necessary powers. Getting state legislation passed can be time consuming and depends on political support that may be challenging to marshal.

Political considerations may limit the will to establish a land bank

Many of the functions performed by a land bank are likely already the responsibility of local agencies or departments; consolidating these activities in one place helps to streamline property acquisition and reuse. In some communities, however, existing management and staff may have concerns about giving up local control to a regional entity and challenge the proposed reorganization and reassignment of activities.

Community Land Trusts

Community land trusts (CLTs) are organizations that own land and develop it through an inclusive, community-based process. CLTs develop land according to the community's needs, which can include anything from open space to a multifamily rental project. Most often, however, CLTs are created to provide affordable homeownership opportunities to low- and moderate-income households. The United States has around 200 community land trusts, and the model has become popular in the UK, as well.

The CLT model is structured around a ground lease. The CLT owns land which is leased to households who purchase the homes that sit on CLT land. Removing the cost of land from the cost of purchasing the home provides a significant subsidy to the households. The ground lease limits the price at which the home can be resold, passing the subsidy on from one homeowner to the next. CLTs also often retain the right to repurchase the home in the case of foreclosure. CLTs are one form of shared equity homeownership.

Unified NSP1 and NSP3 Notice

Land banking as defined in the Unified NSP1 and NSP3 Notice issued October 19, 2010, "A land bank is a governmental or nongovernmental nonprofit 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 the purposes of NSP, a land bank will operate in a specific, defined geographic area. **It will purchase properties that have been 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 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." This definition is also applicable to NSP2.

<u>Legislation guiding land banks varies from state to state, and operating methods are equally unique from one land bank to the next, but they are typically nonprofit entities or government redevelopment agencies that work with counties and municipalities to acquire vacant, abandoned or foreclosed properties.</u>

They can vacate tax liens — which often exceed the market value of a property — and eliminate liabilities that are deterrents to rehabilitation by municipalities and private developers alike. Some land banks rehab or demolish properties themselves. Others turn those tasks over to private developers and community organizations.

They receive grants and other funding from state, county, municipal and federal agencies, private foundations and, in some cases, a cut of the taxes on properties returned to the tax rolls.

Some are forging new ground in the effort to raise money, such as the Suffolk County Land Bank, which has an agreement with the state's Department of Environmental Conservation (DEC) that gives the land bank a proportionate share of the revenues of properties remediated by DEC and sold through the land bank.

Not surprisingly, "other land banks in the state have asked us to share the memorandum of understanding that we have with the DEC," said Sarah Lansdale, executive director of the Suffolk County Land Bank.

Local land banking's rise

The tri-state area is relatively new to land banking, which got its start in the Midwest some 40 years ago. In <u>New Jersey, Governor Phil Murphy signed legislation in early July</u> that allows municipalities to enter into agreements with land banks to purchase and foreclose on tax liens and acquire, rehabilitate and lease or sell properties. Land banks in New Jersey must also maintain a database of land-banked properties in their jurisdictions — an important feature of the legislation that creates a readily available list for developers interested in acquiring properties.

In testimony supporting the legislation, Newark Mayor Ras Baraka noted that in Newark alone there are more than 1,000 vacant and abandoned properties "diminishing property values and blighting neighborhoods."

Connecticut is also new to the land banking scene. In 2017, the state's Department of Housing provided $5 million to seed the Hartford Land Bank, which launched this summer. Laura Settlemyer, director of blight remediation for the city of Hartford, said that the bank is starting with tax deed property sales and expects to have its first inventory soon. In June of this year, the legislature took land banking further, authorizing any municipality in the state to create a land bank.

The year 2017 also saw passage of legislation creating brownfield land banks to deal with the contaminated industrial and manufacturing sites that, for example, plague such river towns as Hartford, Waterbury, Bridgeport and New London, which were home to the mills and factories that powered the industrial revolution in the 19th and 20th centuries.

Brownfield land banks can take control of properties, clear titles and tax liens and conduct or facilitate remediation and marketing. The first out of the gate was the Connecticut Brownfield Land Bank, which operates statewide. The bank doesn't have a dedicated funding stream, but earns fees, receives grants from nonprofits and other private sources and can seek local and state funding. "Our [job] is to take sites that the market has passed by and need intervention," said Arthur Bogen, president of the land bank.

"**Land banks absolve municipalities of the politically charged process of taking on abandoned, contaminated sites. It's a complicated process to clear the liens, get liability relief from the U.S. state and get funding in place to make it work**."

Remediation in the Empire State

Compared to New Jersey and Connecticut, New York is an old hand at land banking, having eight years under its belt. Enabling legislation, signed by Governor Andrew Cuomo in 2011, has produced 25 land banks with the limit recently raised to 35. They have been funded over the years with $82 million from the state attorney general's office, drawing on fines levied on financial institutions in the aftermath of the 2008 housing crisis. Most are county-level entities that, according to the New York Association of Land Banks, have reclaimed more than 2,800 properties around the state, conveying more than 1,200 of them to individuals or nonprofit organizations and returning $40 million of assessed value to the state's tax rolls.

> **"Land banks absolve municipalities of the politically charged process of taking on abandoned, contaminated sites."**
>
> **ARTHUR BOGEN,** CONNECTICUT BROWNFIELD LAND BANK

That should be good news in a state where the accumulation of blighted properties has reached a crisis level, said Adam Zaranko, president of the New York Land Bank Association and executive director of the Albany County Land Bank.

"Outside New York City, it's probably one of the biggest challenges in the state," said Zaranko. "Government hasn't been able to solve in a systematic way for the most challenging properties, and the real estate market will rarely solve [problems] for these properties."

The Albany County Land Bank has done more than 400 property sales, half of them to owner-occupants, Zaranko said. It's now embarked on a more ambitious plan to assemble properties that can support development of multifamily and affordable housing.

A hundred miles south, the city of Newburgh, plagued by poverty and gang violence, has an estimated 700 abandoned homes. A number of the abandoned properties are within a 25-block area in its historic district that accounts for 3.4 percent of the city's land but contains 25 percent of its vacant properties.

"In Newburgh, a lot of people walked away after the foreclosure crisis," said Allison Cappella, the former executive director of the Newburgh Community Land Bank. "Newburgh has a very large historic district where the building stock is really old and really expensive and cost prohibitive to fix up."

So far, the Newburgh Land Bank has acquired 119 properties, restored 74 to productive use and returned $4 million of assessment to the city's tax rolls. It has used grant money in some cases to do lead and asbestos abatement and then transferred those properties to Habitat for Humanity, which turns them into affordable homes. The land bank is now partnering with a developer to rehab its first commercial site, creating four apartments in a three-story building and a restaurant on the ground floor.

The Suffolk County Land Bank, launched in 2013, is another active land bank in New York and one of a handful in the state that deals both with brownfield sites and with so-called zombie homes. It's also unique in that it is staffed by county workers.

"We're focused on areas that were hardest hit by the foreclosure crisis, in communities in Babylon, Brookhaven and Islip," said Lansdale. Since 2013, Suffolk has had the highest foreclosure rate in the state, according to the state comptroller's office.

Lansdale works with organizations such as the Long Island Community Development Corp. and the Long Island Housing Partnership, which rehabs properties and makes them available to first-time, income-qualified homebuyers. To date, it has sold 11 homes to first-time, income-qualified homebuyers and donated five to Habitat for Humanity. It has also managed the remediation, sale and development of eight brownfield properties, generating $1.7 million in revenue and $350,000 in annual taxes.

Next door in Nassau, the county land bank was launched in 2016. So far, it has acquired 11 properties and is currently in the process of selling its first property. But it sells only to developers and organizations that are willing and able to build affordable housing, said Brittney Russell, the executive director.

“We want to give people who never owned a home before the ability to own a home,” said Russell.