

An Assessment of Land Banking and other Tools to Transform Vacant, Abandoned, and Tax Delinquent Properties into Affordable Housing in Prince George’s County, Maryland

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Executive Summary

Prince George’s County is in a prime position to better utilize and coordinate existing tools to address vacant, abandoned, and tax delinquent (VAT) properties in a more equitable, effective, and efficient manner, and continue exploring how a land bank could also be leveraged to support local affordable housing goals enumerated in Housing Opportunity for All (HOFA).

One of the key recommendations of the County’s Comprehensive Housing Strategy, Housing Opportunity for All (HOFA), is the creation of a land bank as a potential tool to support the redevelopment of vacant and abandoned residential properties throughout Prince George’s County.¹ Given this recommendation was elevated as a short-term priority, the leadership of the County’s Department of Housing and Community Development (HCD) invited the Center for Community Progress (Community Progress) to assess how the County can better address the inventory of vacant and abandoned properties to support the affordable housing goals identified in HOFA *using existing tools as well as potential new tools like a land bank*. Properties that were tax delinquent were also included in the assessment given the nonpayment of property taxes is usually a clear warning that a property is going into decline. The *existing* legal tools that are the primary focus of this report are housing and building code enforcement (code enforcement) and delinquent property tax enforcement. Without maximizing and coordinating these existing tools in Prince George’s County, a new tool like a land bank will not only be ineffective but will likely become overwhelmed with a large inventory of vacant, abandoned, and tax-delinquent (VAT) properties since there are no measures in place to *prevent properties from going into decline*.

How do vacant, abandoned, and tax delinquent properties impact the residents of Prince George’s County?

Vacant, abandoned, and tax delinquent (VAT) properties directly impact the health, safety, and economic outlook of the families that live next to or near them. VAT properties are disproportionately concentrated in communities of color across the country; often communities of predominantly Black Americans that have been segregated by decades of unjust land use laws and policies as well as systematic disinvestment. For that reason, efforts to assess the impact of VAT properties and to better utilize and coordinate existing tools to address them must first acknowledge those who are most impacted by these properties and how efforts to address them should serve their needs and priorities for land.

In terms of the scale and nature of VAT properties impacting residents in Prince George's County, there are more than 1,500 properties in Prince George's County that are *tax delinquent* according to the County's Office of Finance. Another 1,000 properties have been identified as *vacant and abandoned* over the last several years by the County's Department of Permits, Inspections, and Enforcement (DPIE). In addition to not generating tax revenue, these VAT properties require outsized attention from the local government to respond to increased calls for code enforcement, police, and fire services. Based on data requested from DPIE, **the costs of addressing a single VAT property could be more than \$10,000 each year. The costs of addressing all the VAT properties in Prince George's County is likely several million dollars each year, which is a conservative estimate.**

What are the key takeaways from the report?

Many of the findings and recommendations in this report are complementary to those in HOFA and affirm the importance of data, interdepartmental coordination, engagement with municipalities and nonprofit partners, and the *need for a flexible, nimble pipeline of property to support the affordable housing challenges in Prince George's County*. While our overarching finding is that *a land bank could be a valuable tool for Prince George's County*, the below key takeaways affirm that a land bank can only be effective if additional steps are taken:

- **Leadership:** It will take continued leadership from all levels of County government to create and prioritize a more comprehensive, collaborative, and transparent approach to VAT properties.
- **Data:** There is an opportunity to improve the collection of and centralize the current management of County data to get a better understanding of the inventory of VAT properties and prioritize which properties might be better addressed by a potential land bank.
- **Toolbox:** The County has a decent set of legal tools available in state law, however, a land bank will only be effective if there is better coordination of *existing* tools like code enforcement and delinquent property tax enforcement, and implementation of *new* tools available in state law but not yet adopted by the County to bypass the harmful practice of selling delinquent property taxes (via tax certificates) to private investors and losing control of the VAT property and preventing further harm to the community.
- **Engagement with Municipalities:** It will be critical to continue engaging and building relationships with the municipalities and residents within Prince George's County that are most impacted by VAT properties and facing increasing affordable housing and displacement challenges.
- **Partnerships:** The County can maximize its affordable housing objectives by expanding partnerships with the nonprofit and affordable housing community developers and creating an inexpensive and accessible pipeline of property.

How can the County better utilize and coordinate existing tools to address VAT properties in the short-term?

There are immediate actions that can be taken to improve coordination between departments, advance data collection, and begin to unlock a limited pipeline of land for affordable housing and local community goals.

- 1. Renew support and expand focus and membership of Land Bank Task Force to focus not just on land banking as a tool to address VAT properties, but on *all* tools available to address VAT properties.**

2. **Standardize and centralize data collection to improve integration, mapping, and analysis of all data related to VAT properties across County departments and agencies.**
3. **Adopt judicial *in rem* tax foreclosure to streamline and expand pipeline of VAT properties that could be used to support affordable housing and public good.**
4. **Adopt a procedure to withhold certain tax delinquent properties from the tax sale for redevelopment purposes to expand pipeline of VAT properties that could be used to support affordable housing and public good.**
5. **Adopt a process to identify “abandoned” properties and accelerate tax foreclosure to expand pipeline of VAT properties that could be used to support affordable housing and public good.**
6. **Consider the development of a policy that would allow nonprofits preferred access to County surplus land to support affordable housing goals identified in HOFA.**

What role can a new tool like a land bank play?

If the County can begin the process of better utilizing and coordinating existing tools to address VAT properties, a new and separate land bank entity has the potential to:

- **Ensure focus on specific subset of properties causing the most harm** to residents and costing the County and its municipalities in public safety, lost taxes, and declining property values; and inaccessible to the private market given the various financial legal challenges
- Create a **more inclusive governance structure** to ensure that municipalities and residents most impacted by VAT properties have a seat at the table
- Provide more **flexibility and transparency** in site assemblage for nonprofits to support affordable housing and other community goals
- Open up potential **new funding sources** if the land bank is created as a nonprofit

What are additional long-term recommendations that should be considered by the County?

There are potential changes to the Maryland Land Bank Law as well as other state laws and local policies regarding VAT properties that the County should also consider in the longer term.

1. **In the Maryland Land Bank Law, provide more direct connections to the delinquent tax enforcement process and increase dedicated funding mechanisms to increase the impact and effectiveness of a land bank created under the Land Bank Law.**
2. **Establish a comprehensive plan to track and monitor the scale and impact of VAT properties on communities in Prince George’s County, starting with a vacant property registration.**
3. **Clarify the County’s authority to add civil fines assessed against VAT properties to the tax bill to create another tool that could be leveraged to facilitate the acquisition of VAT properties in tandem with new delinquent property tax enforcement tools.**
4. **Increase the likelihood that receivership is a viable tool by clarifying a receiver’s authority to foreclose on VAT property.**
5. **Increase the pipeline of VAT properties that could be used to support affordable housing and public good by expanding the types of VAT properties on which the judicial *in rem* tax foreclosure tool can be used.**

A land bank in Prince George’s County has the potential to provide dedicated focus and resources to those properties that are causing the most harm to residents and costing the County millions of dollars every year. This new tool will only be successful if it is coordinated with the County’s current tools and programs, leverages reforms to policies and practices that will enable the County to move more VAT

properties throughout code enforcement and delinquent tax enforcement, and inclusive of the municipalities and residents that are most impacted by VAT properties, and provides more flexibility and transparency in site assemblage to support affordable housing and the public good.

It is our hope that this report provides tangible ways for the County to better utilize and coordinate existing tools to address VAT properties and how a new tool like a land bank can protect the equity of legacy homeowners, protect the public safety of citizens, and create opportunities to transform what can rightfully be seen as a stain in many communities of color across the community into an asset that supports the affordable housing goals identified in HOFA that will benefit generations to come.

Introduction

In March 2019, Prince George’s County (County) released their Comprehensive Housing Strategy, also known as Housing Opportunity for All (HOFA), which reflects two years of data collection and analysis, and engagement with County elected officials, County departments, municipal leaders, residents, and housing developers and advocates from the private and nonprofit sectors. This impressive document outlines the “County’s 10-year plan to serve the housing needs of all county residents, both current and future, while expanding access to opportunity through housing investments.”²

One of the key recommendations of HOFA is the creation of a land bank as a potential tool to support the redevelopment of vacant and abandoned residential properties throughout Prince George’s County.³ Given this recommendation was elevated as a short-term priority, the leadership of the County’s Department of Housing and Community Development (HCD) invited the Center for Community Progress (Community Progress) to assess how the County can better address the inventory of vacant and abandoned properties to support the affordable housing goals identified in HOFA *using existing tools as well as potential new tools like a land bank*.⁴ Properties that were tax delinquent were also included in our assessment given the nonpayment of property taxes is usually a clear warning that a property is going into decline. The *existing* legal tools that are the primary focus of this report are housing and building code enforcement (code enforcement) and delinquent property tax enforcement. Without maximizing and coordinating these existing tools in Prince George’s County, a new tool like a land bank will not only be ineffective but will likely become overwhelmed with a large inventory of vacant, abandoned, and tax-delinquent (VAT) properties since there are no measures in place to *prevent properties from going into decline*.

Community Progress was asked to undertake this assessment given our role as the leading national experts in helping communities develop more equitable, efficient, and effective strategies—which includes land banking—to transform VAT properties into productive assets for public good. Community Progress also has experience working with a variety of partners on related issues across Maryland, and previously engaged in discussions with some of the inner beltway communities in Prince George’s County regarding vacancy and abandonment. With the financial support of Citi Community Investing and Development, the contract and scope of work between Prince George’s County and Community Progress was finalized in August 2020 and over the course of eight months, the following activities were completed:

1. **Data Collection and Analysis:** In order to assess whether existing tools are working and whether a new tool like a land bank is the right fit for Prince George’s County, there needs to be an understanding of the problem, and specifically the inventory of VAT properties that are causing the most harm to the residents of Prince George’s County. There was an attempt to collect data for the following: a) vacant,

privately owned properties that are tax delinquent; b) vacant privately owned properties identified as abandoned by the Department of Permitting, Inspections, and Enforcement (DPIE); and c) publicly owned vacant properties.⁵

2. **Review of State and Local Laws and Policies:** The review of existing legal tools like code enforcement and delinquent property tax enforcement available to Prince George's County to prevent, acquire, and redevelop VAT properties is essential to uncover opportunities for better utilization and coordination and avoid the creation of a new tool like a land bank that may be duplicative in nature.⁶
3. **Interviews with County and Community Stakeholders:** Discussions with key County leadership from departments that are negatively impacted by VAT properties was instrumental in understanding their challenges and County priorities.⁷ Engaging with additional nonprofit and private affordable housing organizations and advocates also provided insight into some of the challenges of acquiring property from the County to support affordable housing.
4. **National Expertise on Land Banks:** Community Progress tapped into our national expertise of working with the majority of operating land banks across the country, and while no two land banks are the same, there are lessons learned that can be applied to Prince George's County.⁸

To guide this work, HCD worked with the County Executive's office to develop a Land Bank Task Force comprised of key leaders in those County departments that would be instrumental in working together to better address VAT properties, including:⁹

- **Office of the County Executive** (Deputy Chief Administrative Officer for Economic Development): responsible for overseeing the County's economic development priorities and projects
- **Office of Finance:** responsible for the collection of delinquent tax enforcement, including the sale of tax certificates to private investors
- **Department of Permitting, Inspection, and Enforcement (DPIE):** responsible for the enforcement of housing and building codes
- **Office of Central Services (OCS):** responsible for the management and disposition of County-owned surplus property
- **Planning Department, staffed by the Maryland-National Capital Park and Planning Commission (MNCPPC):** responsible for county-wide and community planning services, special projects, mapping
- **Law Department:** responsible for providing legal guidance on the various laws and ordinances impacting VAT properties

Many of the findings and recommendations in this report are complementary to those in HOFA and affirm the importance of data, interdepartmental coordination, engagement with municipalities and nonprofit partners, and the *need for a flexible, nimble pipeline of property to support the affordable housing challenges in Prince George's County*. While our overarching finding is that *a land bank could be a valuable tool for Prince George's County*, the below key takeaways affirm that *a land bank can only be effective if additional steps are taken*:

1. **Leadership:** It will take continued leadership from all levels of County government to create and prioritize a more comprehensive, collaborative, transparent approach to VAT properties.
2. **Data:** There is an opportunity to improve the collection of and centralize the current management of County data to get a better understanding of the inventory of VAT properties and prioritize which properties might be better addressed by a potential land bank.
3. **Toolbox:** The County has a decent set of legal tools available in state law, however, a land bank will only be effective if there is better coordination of *existing* tools like code enforcement and delinquent property tax enforcement, and implementation of *new* tools available in state

law but not yet adopted by the County to bypass the harmful practice of selling delinquent property taxes (via tax certificates) to private investors - losing control of the VAT property and preventing further harm to the community.

4. **Engagement with Municipalities:** It will be critical to continue engaging and building relationships with the municipalities and residents in Prince George's County that are most impacted by VAT properties and facing increasing housing and displacement challenges.
5. **Partnerships:** The County can maximize its affordable housing objectives by expanding partnerships with the nonprofit and affordable housing community developers and creating an inexpensive and accessible pipeline of property.

Although there were several challenges uncovered during our discussions with County and community stakeholders, including problems with *occupied* properties, the focus of this report is on *vacant* properties that are causing harm to a community given the increase in (and cost of) public safety threats to residents and first responders, loss of critical tax revenue to provide basic services to residents, and the loss of equity for legacy homeowners whose property values decline because of these liabilities on their street. Problematic occupied properties—such as substandard rental properties owned by an absentee landlord—are also important but require a different set of strategies focused on preventing displacement and providing support for vulnerable tenants and homeowners who are encountering financial and other hardships and have limited options.

Above all, and what may at times seem contrary to the technical (and transactional) nature of this report, this work is about the people and not the properties. The history of vacancy and abandonment in this country is deeply rooted in racist and unjust housing policies, and the racial wealth gap in this country continues to increase. It is our hope that this report can bring together multiple discussions, multiple reports, and focus on how existing tools and potential new tools like a land bank can be better utilized and coordinated to protect the equity of legacy homeowners, protect the safety of citizens, and create opportunities to transform what can rightfully be seen as a stain in many communities of color across the community into an asset that supports the affordable housing goals identified in HOFA that will benefit generations to come.

This report could not have been made possible without the support and leadership of HCD, members of the Land Bank Task Force—especially those that provided ongoing data and answers to questions along the way—and the financial support and partnership of Citi Community Investing and Development. The report is laid out in the following sections:

- I. **Overview of Approaches to Address VAT Properties** to ensure a common foundation for how tools like housing and building code enforcement, delinquent property tax enforcement, and land banking can be coordinated and used most effectively.
- II. **Key Policy Questions and Analysis of Current Conditions** regarding the nature of the problem property inventory, existing toolbox, and current public property acquisition and disposition mechanisms.
- III. **Preliminary Recommendations and Considerations** to better utilize existing tools and potential new tools like a land bank.
- IV. **Conclusion.**
- V. **Appendices** that provide more detail on data, legal and policy review, local stakeholders, and administrative documents to create a potential new land bank.

All of the information in this report is subject to the review of local legal counsel.

I. Overview of Approaches to Address VAT Properties

Vacant, abandoned, and tax delinquent (VAT) properties impose untold risks on the health, safety, and economic well-being of the residents of a community. Mitigating these harms and putting VAT properties on a path to productive reuse in line with community goals requires the long-term commitment of local leaders to fund and support strategies to address VAT properties. It also requires strong cross-agency and cross-sector partnerships to coordinate the use of a range of public systems and tools that address VAT properties, including housing and building code enforcement, delinquent property tax enforcement, and land banks and land banking. When informed by robust data collection and analysis, and driven by community needs and priorities, this type of coordinated approach can result in meaningful change in those neighborhoods most impacted by disinvestment and the legacy of racist land use laws and policies.

A. Fix it Up, Pay it Up, Give it Up

The “fix it up, pay it up, give it up” approach for VAT properties, referenced in Figure 1 below, is premised on the idea that property owners have a responsibility to maintain their property in a way that does not have a negative impact on the health and safety of their neighbors and the community. When property owners are unwilling or unable to meet this responsibility, this approach is a simple way of explaining how a range of public systems and tools can be coordinated to ensure the harm imposed by VAT properties on the community is diminished, that taxpayers are reimbursed for any costs incurred in securing, cleaning, or demolishing the hazardous conditions on the property, and—as a last resort—that the VAT property is transferred to a new responsible owner.

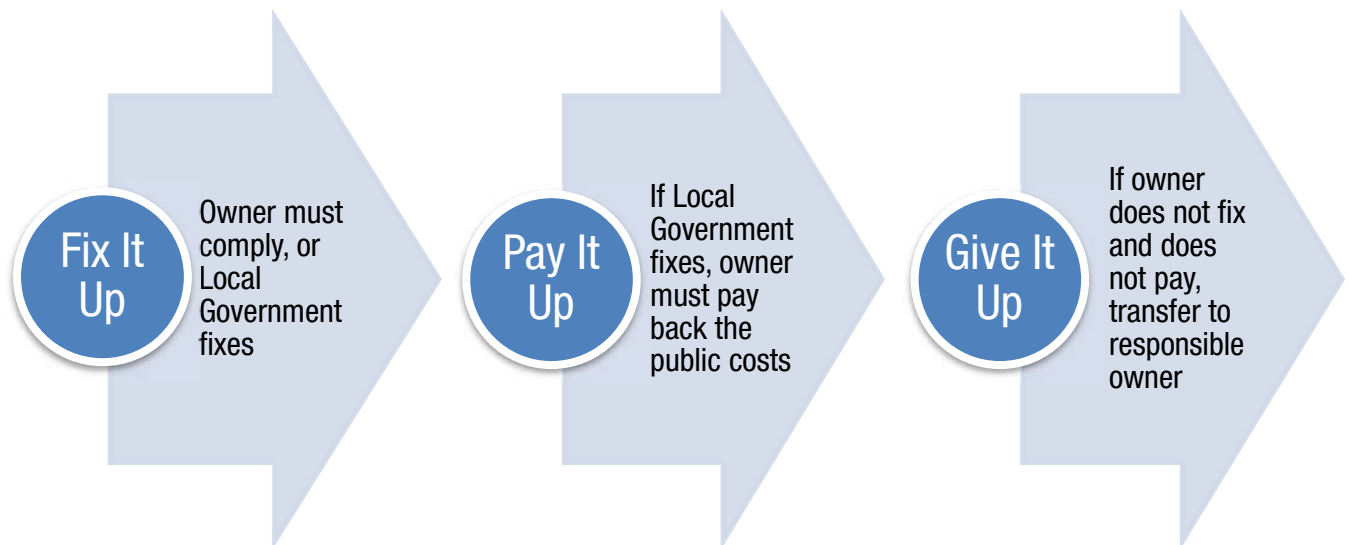


Figure 1: Fix It Up, Pay it Up, Give it Up

An ideal “fix it up, pay it up, give it up” approach to VAT properties is driven by robust data collection, tracking, and analysis, as well as community goals and priorities, and strategically connects the enforcement of housing and building codes by the local government to the delinquent property tax enforcement system.

Fix it Up

Local governments rely on housing and building code enforcement departments (“code enforcement”) to help monitor and identify whether VAT properties are in violation of local property standards and to reach out to the owner to demand compliance.¹⁰ If the owner fails to bring the VAT property into compliance, code enforcement should have the ability and capacity to quickly abate the hazardous conditions, either by cleaning up an accumulation of trash and debris, boarding up and securing the property, mowing high grass and weeds, or demolishing the structure. Key components and practices that are part of an equitable, effective, and efficient “fix it up” approach include:

- *A robust system of collecting and analyzing property and neighborhood housing market data.* This can help local leaders and code enforcement better understand the scale of the problem, assess the owner’s likely willingness to invest in responding to code enforcement’s demands, and tailor interventions to compel compliance based on the likelihood they will succeed in that particular circumstance.
- *More proactive tools to monitor neighborhoods and property conditions.* For example, focused code enforcement sweeps or vacant property registrations can help code enforcement address issues with VAT properties before they become a bigger problem.
- *Violation notices that clearly articulate the problem and outline consequences designed to motivate that particular owner to comply.* Notices should also include information on the availability of any home repair grants or loans for lower-income owners who want to comply but lack the means to do so.
- *An effective and responsive nuisance abatement or demolition program.* Such a program must be designed to respond to an owner’s inaction and mitigate the potential harm to neighbors in as efficient and timely a matter as possible.

Pay it Up

If code enforcement must act to address the violation because of inaction by a property owner, then code enforcement should, on behalf of all taxpayers, bill the owner for the costs incurred. The most effective way to compel a property owner to pay back these costs is to add the unpaid costs as a lien against the property and seek enforcement of the lien by adding it to the property tax bill. Key components and practices that are part of an equitable, effective, and efficient “pay it up” approach include:

- *Fully loaded costs are billed to the owner.* Costs should include the costs of the actual abatement; any personnel or administrative hours spent inspecting the property, researching ownership, or issuing notices to address the problem; related vehicle and equipment costs; court costs; and any other relevant costs.
- *State and local laws should clarify a lien for any unpaid amounts takes priority over all other liens against the property, except for liens for unpaid taxes, and can be added to the property tax bill.* Working with the local treasurer or tax collector to add unpaid code enforcement or abatement costs to the property tax bill is generally the most effective way to ensure the owner will pay back the public costs in order to avoid losing the property. Alternatively, if unpaid code

liens are given sufficient priority, the threat of a separate code lien foreclosure could provide sufficient motivation to pay back those costs.

- *Equitable resources or ‘offramps’ available to low-income owners.* Inevitably, low-income or other vulnerable owners will get caught up in the enforcement system. The ability to forgive or release abatement liens to ensure those types of owners have a path to avoid the loss of the property and generational wealth and potentially invest in the repair or maintenance of the property instead is critical.

Give it Up

If the owner fails to pay back the cost incurred by the local government and if all equitable solutions and resources have been exhausted, then the property should be transferred to a new responsible owner through code or tax lien foreclosure. Key components and practices that are part of an equitable, effective, and efficient “give it up” approach include:

- *State and local law allow the local government to accelerate the transfer of VAT properties.* In recognition of the fact that VAT properties impose greater harm on the community, a separate and quicker process to foreclose on and transfer title to VAT properties can help to mitigate the harm and get the property back to productive status more efficiently.
- *A code or property tax lien enforcement system that provides clarity about the final date by which payment can be made or the property will be transferred.* Multiple lien enforcement events (e.g., sale of the lien or debt, then foreclosure of the right to redeem) can create confusion and uncertainty about when the owner or another interested party’s rights expire and when title can be transferred. A single enforcement event, the foreclosure and transfer of the property to a new owner, eliminates much of that confusion.
- *A code or property tax lien enforcement system that is judicial, focused on the property (in rem), as opposed to the owner (in personam), and that results in marketable insurable title.* The transfer of title for VAT property should be focused on transferring the property to new ownership. It should require the local government to provide notice of the foreclosure that meets constitutional standards for due process only one time, instead of at multiple enforcement stages, to conserve limited resources and so that the foreclosure results in title transferred that a local title insurer will be willing to insure.
- *Ability to direct the path of the property to ensure a responsible end user.* The local government should have the opportunity to direct the path of the property to a new owner to avoid the situation where the property will be acquired by a speculative investor that does not necessarily have the neighborhoods’ needs or best interests for how that property should be used in mind.

Finally, it is important to note that the overarching focus of “fix it up, pay it up, give it up” is not on the owner, but on the property coming into compliance, which is always the overarching goal of an equitable, effective, and efficient approach to addressing VAT properties.¹¹

An Important Note on the Delinquent Property Tax Enforcement System

Throughout our work across the country and particularly in Maryland, it is clear that one of the leading causes of vacant and abandoned properties is a broken delinquent tax enforcement system. Tax delinquency is a clear warning sign that a property is at risk of entering a devastating cycle of abandonment and decline unless swift intervention is taken. Most communities have found that the most effective intervention is transferring vacant, abandoned, and tax delinquent properties into responsible ownership as swiftly as possible.

Currently, local governments across Maryland cannot swiftly intervene and transfer vacant, abandoned, and tax delinquent parcels into responsible ownership. With limited exceptions, they must sell the tax certificate (which is the debt that includes delinquent taxes and municipal liens) to a tax certificate purchaser instead of selling the actual property to a responsible owner. Tax certificate purchasers rationally purchase certificates for select properties that will yield a profit, which means tax certificates for many low-value, vacant, and abandoned properties in distressed markets will not be sold and will instead end up recycling through the broken system. Local governments are left with limited ability to acquire, control, or manage these properties yet are still responsible to put out the fire or board the windows and doors to ensure the public safety of their citizens.

An equitable, effective, and efficient **delinquent property tax enforcement system**—several components of which are described above—can allow a local government to facilitate the transfer of a VAT property to a new responsible owner, and is therefore a critical part of a “fix it up, pay it up, give it up” approach. This role can become much more difficult to carry out when the local government is required by law to collect delinquent property taxes—which may include unpaid code liens—by selling the tax lien (or certificate, as is the case in Maryland) to private investors, like in Prince George’s County. This practice essentially transfers the local government’s right to collect and foreclose on the unpaid debt to a private party who is likely more interested in collecting interest and fees from the delinquent owner than actually seeing a VAT property transferred to a new owner who will reuse the property in line with community needs and goals. In jurisdictions that require the sale of tax liens, however, a “fix it up, pay it up, give it up” approach may still be possible if there are appropriate tools that can be used to exclude VAT properties from this practice and more effectively and efficiently facilitate the foreclosure and transfer of the property to a new owner.

Fortunately, there are several recently enacted Maryland laws that could allow the County to exercise more control over the transfer of certain vacant, tax delinquent properties. In addition, the County’s potential ability to strategically connect code lien enforcement with the use of new delinquent tax enforcement tools to withhold certain vacant, tax delinquent properties from the annual tax certificate sale may increase the potential inventory of land that could be acquired by the County or a potential land bank and reused in line with community goals and priorities for land. One particular law that will be discussed in more detail in Section IIa of the report allows the County to bypass the sale of tax certificates for vacant lots or vacant structures that have been declared by code enforcement as unfit for habitation. The County can immediately foreclose on these properties and utilize a special **judicial in rem foreclosure (JIR) action** that results in clear title transferred directly to the County. Instead of selling the debt associated with the property, the actual property is transferred to new responsible ownership within an accelerated time frame – *this is likely the legal lever that will be one of the more effective tools for the County to adopt with or without the creation of a land bank.*

B. Land Banks Tie It All Together

A “fix it up, pay it up, give it up” approach requires a concerted effort to ensure VAT properties are transferred to a new *responsible* owner to increase the likelihood that the property will be used in a manner that supports local needs and priorities for land. A land bank can not only help to serve this particular role, but also work closely with a range of public and private partners to support each of the various phases of the “fix it up, pay it up, give it up” approach. It is important to remember that the overarching goal of any approach is to prevent more properties from going into decline and, *only as a matter of last resort*, should the property be transferred to new responsible ownership or a temporary

steward such as a land bank. *As noted below, often times land banks are a more equitable, efficient, and effective alternative to local government given its ability to market and convey properties more flexibly, prioritizing best outcome over highest offer.*

National Overview

Over the past 40 years, the majority of land banks have been created across the country as public entities, usually special purpose nonprofit corporations or public authorities, with legislated governmental powers that are solely focused on converting vacant, abandoned, and tax delinquent properties into productive use. There are over 200 land banks in operation across the country, many of which were developed as a direct response to the Great Recession and the resulting increase in vacancy and abandonment due to mortgage foreclosures. Land banks are one of several tools in a larger system that impact the life cycle of vacancy and abandonment in any given community. Land banks typically focus on a subset of vacant problem properties that (1) have been altogether rejected by the private market given various legal and financial barriers, and (2) are causing the most harm to a community—creating public safety hazards, driving down property values, and draining local tax dollars.

Many of the most effective land banks around the country have special powers granted by state-enabling legislation, including Maryland, that allow them to undertake their work more equitably, effectively, and efficiently, than other governmental or nonprofit entities. State-enabling legislation can allow a land bank to intervene in the tax and lien enforcement process to acquire tax delinquent property for substantially less than the amounts due on the property, extinguish past liens, and hold property in a tax-exempt status until it is sold. These laws allow land banks to market and convey properties more flexibly than local governments, prioritizing best outcome over highest offer. Some state-enabling legislation also identify sources of dedicated funding to help pay for land bank operations.

Because of Community Progress' work with most of the land banks operating across the country, several key elements have been identified among the most effective land bank programs.¹²

Strategic Links to the Property Tax Collection and Foreclosure Process

State-enabling legislation grants land banks specific powers to intervene in the tax collection pipeline cost-effectively, efficiently, and ahead of speculators or investors. The assignment of tax certificates and liens and the public auction of tax foreclosed properties may generate positive outcomes for marketable properties in strong housing markets, however, these approaches rarely, if ever, lead to positive outcomes for VAT properties in distressed neighborhoods.

Operations Scaled in Response to Local Land Use Goals and Needs

Successful land banks establish acquisition and disposition strategies that directly support the implementation of local land use goals and meet community needs. Some land banks tackle massive inventories of extremely unsafe and abandoned properties as part of an urgent stabilization and public safety strategy, while others operate selectively with careful deliberation. Land banks should always make decisions based on a strong understanding of community priorities and goals, coordinate with other local partners, and complement existing blight prevention strategies.

Policy-Driven, Transparent, and Publicly Accountable Transactions

The acquisition and disposition of properties – especially in those communities that have been negatively impacted by historically racist and unjust policies – is an important and sensitive endeavor. Successful land banks go to great lengths to build and maintain trust with the public through complete transparency in the establishment of priorities, policies, and procedures that govern all actions. Land banks should make sure these ground rules and policies are established prior to any transactions, and annually revisited with public input to maintain a high standard of transparency and accountability.

Engagement with Residents and Other Community Stakeholders

There is no substitute for engaged community stakeholders who understand a community’s history and goals. Successful land banks find creative and consistent ways to inform, engage, and empower active residents to help prioritize land bank interventions and develop long-term solutions. Whether by establishing a community advisory board or regularly hosting neighborhood meetings, land banks should explore and implement practices that affirm a strong commitment to inclusiveness, engagement, and community empowerment.

Alignment with Other Local or Regional Tools and Community Programs

Because a land bank is simply one tool to support locally developed land use goals, it is important to coordinate with other tools and programs geared toward neighborhood stabilization and revitalization. Successful land banks help facilitate and work within diverse collaborations across public, private, and nonprofit sectors that share similar economic and community development goals. Effective land bank activities complement existing blight prevention efforts, including but not limited to, delinquent property tax enforcement, strategic code enforcement, neighborhood investments, and community-based planning.

Recurring, Reliable Sources of Funding

Land banks focus on the inventory of VAT properties the local private market has effectively rejected, and therefore will always require some level of public support— whether cash or in-kind—that is proportional to the scope and scale of VAT properties the land bank is expected to help resolve. With a recurring and reliable source of funding, land banks can focus on the types of creative interventions and community partnerships that are required to transform liabilities to productive use that meet and advance community goals.

Each of these key elements should be considered as deliberations continue internally and externally regarding whether a land bank will be created in Prince George’s County.

II. Key Policy Questions and Analysis of Existing Conditions

There are a variety of ways in which the County can improve its approach that will help to transform VAT properties into assets that can support affordable housing and the public good as part of a “fix it up, pay it up, give it up” approach that focuses on code enforcement, delinquent property tax enforcement, and the potential for land banking. We identified three primary policy questions to help evaluate key opportunities and barriers for how the existing inventory of VAT properties and the tools currently available to the County could be used to accomplish this goal:

1. **What is the nature and scale of VAT properties that could be unlocked to create a pipeline of properties to support affordable housing and public good?**
2. **How can existing laws and policies address the current VAT property inventory?**
3. **What other policy and practice barriers limit the County's existing ability to identify, coordinate the acquisition of, and transfer VAT properties to support affordable housing and public good?**

Community Progress attempted to address these questions through requests for data, legal and policy research, and extensive interviews with local stakeholders. This section summarizes our key findings from those activities. Despite limited data and key legal, policy, and resource-related challenges, Community Progress' overarching takeaways are that there are multiple opportunities to adopt and to better coordinate the use of available tools to address VAT properties and unlock a pipeline of properties to support affordable housing and public good. If the County were to implement the full complement of available tools and establish a process to better coordinate these tools among existing departments and stakeholders, then a land bank could be a valuable temporary steward that could market and convey these properties more flexibly, prioritizing best outcome over highest offer.


1. What is the nature and scale of VAT properties that can be unlocked to create a pipeline of land to support affordable housing and public good?

As described in the previous section, the two key public systems that are critical to support a more comprehensive, "fix it up, pay it up, give it up" approach to VAT properties are the delinquent property tax enforcement system and the housing and building code enforcement system.¹³ It is therefore critical to understand the inventory of *vacant* properties that are tax delinquent and subject to potential code enforcement action, and to understand the challenges and opportunities related to these existing systems that allow the County to address VAT properties and put them on a path to reuse.

First, it is helpful to shed some light on the impact these types of VAT properties have on both the County and the residents of Prince George's County. According to the County's Office of Finance, which manages the delinquent property tax enforcement system in Prince George's County, there are more than 1,500 properties in Prince George's County that are *tax delinquent*. Another 1,000 properties have been identified as *vacant and abandoned* over the last several years by the County's Department of Permits, Inspections, and Enforcement ("DPIE"), which manages code enforcement in the County. In addition to not generating tax revenue, these VAT properties require outsized attention from the local government to respond to increased calls for code enforcement, police, and fire services. Moreover, these properties impact the health, safety, and economic outlook of the families that live next to or near them. As the below example highlights, and based on data requested from DPIE, **each of these VAT properties could cost the County over \$10,000/year or in total several millions of dollars a year, which is a conservative estimate.**¹⁴

Property Snapshot: 12628 Darlenen Street

Photo credit: [Link to Google Maps here](#).



Unpaid Taxes	\$3,000
\$2,100 in unpaid taxes	
\$900 interest and penalties	
Code Enforcement Costs	\$7,000
2 clean ups @ \$3,200 each	
Inspector fees, 2.5 hours for 2 cases @ \$35/hour	
Additional clerical and court costs if needed, est. @ \$250	
Public Safety Costs	\$250
Police officer hours, est. \$125	
Firefighter/EMT hours, est. \$125	
ESTIMATED TOTAL	\$10,250/year

Figure 2: Sample Costs for a VAT Property

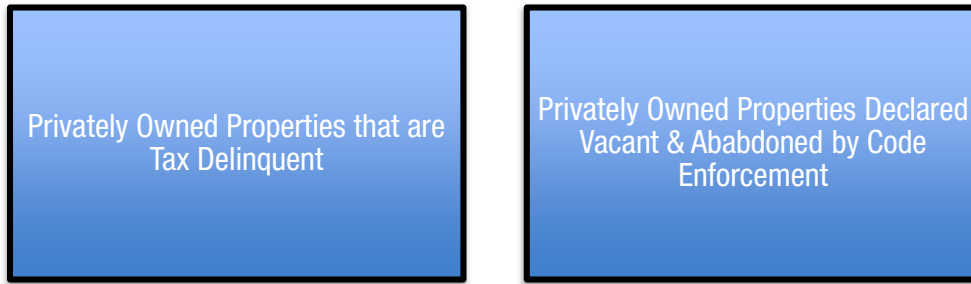
The Darlenen property is a single-family home in Prince George’s County that is vacant, abandoned, and tax delinquent. In 2019, the property owed \$3,000 in unpaid taxes, interest, and penalties. DPIE had to engage a contractor on two separate occasions in 2019 to clean and secure the property at a total cost of nearly \$7,000. It is likely other costs were incurred, including hours spent by Police or Fire staff responding to calls for service. All told, Community Progress conservatively estimates that the County’s direct costs of addressing this VAT property each year is more than \$10,000.

Research also indicates that because the Darlenen property is vacant, it is negatively impacting the value of the homes located within 500 feet of it.¹⁵ Given the property appears to be in a subdivision with a number of residential homes, there may be dozens of homes that have lost value due to the condition of the Darlenen property. This collective diminished value could translate into lower tax assessments, a lower tax base, and therefore less property tax revenue collected by the County to fund the services needed to address problems like the Darlenen property.

It is precisely these types of properties that a more coordinated approach to VAT properties could be designed to address. If this approach can be adopted, then it is more likely that a land bank could be an effective partner and would be able to more successfully acquire VAT properties, mitigate the harm they impose on neighbors and the costs imposed on the local government, and help ensure they are stewarded into productive assets for public good.

To get a preliminary handle on the nature and scale of VAT properties, as well as the potential inventory of VAT properties that could be pulled into a land bank portfolio and then used for affordable housing, Community Progress requested several data sets from the County related to vacant properties. While much of the data we requested is either not tracked or unavailable—there is no reliable data that would allow us to calculate the total number of vacant, privately owned properties, for example—the County provided preliminary data sets indicating VAT properties are a problem in Prince George’s

County and that properties that are tax delinquent and are vacant and subject to code enforcement could be part of an inventory of land to support affordable housing and other public good.¹⁶



Vacant properties that are tax delinquent or subject to multiple code enforcement actions and liens offer a local government a powerful enforcement tool, foreclosure, in the event the owners fail to remedy the problem and, by their actions, continue to harm the neighbors and neighborhoods. In fact, these types of properties are the primary source of inventory for land banks and land banking programs across the country.

a. Why Vacant Tax Delinquent Properties are a Problem and Challenges and Opportunities of the Existing Delinquent Tax Enforcement System

Tax delinquency is one of the most common indicators of vacancy, and properties that are tax delinquent commonly exhibit signs of deterioration and have a negative impact on neighbors or neighborhoods. This is why it is so critical that the delinquent property tax enforcement system can be used to facilitate the transfer of VAT properties to a new responsible owner in an equitable, effective, and efficient way.

In Prince George’s County, the requirement that the County offer tax certificates for sale to private investors is a significant barrier to the County’s ability to intervene, gain control of VAT properties, and direct them to a new responsible owner. When a property is tax delinquent in Prince George’s County, the County attempts to collect the unpaid taxes by selling a tax certificate to a private investor at an annual public auction referred to as the “tax sale.” An investor is then entitled to collect the tax debt and any statutorily prescribed interest and fees until the certificate expires, two years from the date of the tax sale. To incentivize payment, the investor can file an action in court to foreclose on the certificate. This foreclosure action can be filed as soon as 6 months after the tax sale, and no later than 2 years after the tax sale, so long as the owner has not paid back all of the taxes, interest, fees, and costs needed to redeem the property and prevent the foreclosure.¹⁷ The investor is not required to pursue foreclosure and can simply walk away; in fact, Maryland tax sale investors rarely foreclose. If the investor walks away, the tax certificate is offered again at the next tax sale and the property goes through the same cycle, continuing to impact the health and safety of neighbors and draining public resources.¹⁸

If an investor does not bid on the property at the tax sale, the County becomes the tax certificate holder by default. The County has the same option as an investor who holds a tax certificate—to foreclose or walk away when the certificate expires. Alternatively, the County can transfer its interest to certain third parties—like a land bank—and that party can foreclose.

The longer a tax certificate remains unpaid, the more likely it is to be vacant and imposing some harm on the community. According to data provided by the County’s Office of Finance, as of December 2020 there were more than 1,500 outstanding tax certificates in Prince George’s County. Of those outstanding tax certificates, 260 were sold in 2018 and the certificate has now expired, meaning that, unless the owner redeems, these properties will likely be offered again at the next tax sale and cycle through the process all over again.

Despite the unfortunate barriers that the sale of tax certificates present, there are a few different delinquent property tax enforcement mechanisms available to the County, summarized in Figure 3, that it can utilize to acquire or facilitate the acquisition of VAT properties. One particular mechanism that is not currently being used by the County – judicial *in rem* foreclosure (JIR) – would allow the County to bypass the sale of tax certificates for vacant lots or vacant structures that have been declared by code enforcement as unfit for habitation and immediately foreclose on these properties utilizing a special **judicial *in rem* foreclosure (JIR) action** that results in clear title transferred directly to the County. Instead of selling the debt associated with the property, the actual property is transferred to new responsible ownership within an accelerated time frame. As any resident living next to a VAT property knows, time is the worst enemy. Therefore, the ability of the County to intervene sooner using JIR can better protect the residents of Prince George’s County, and particularly those that continue to be disproportionately impacted by vacancy and abandonment.

MECHANISM	DESCRIPTION	AVAILABLE
<i>Acquire Tax Certificate and Foreclose</i> ¹⁹	County automatically acquires the certificate if no one bids at tax sale, can initiate foreclosure after 6 months or transfer the certificate and the right to foreclose to a land bank for no cost.	Yes
<i>Withhold Certain VAT Property from Tax Sale for Judicial in rem (JIR) Foreclosure</i> ²⁰	County can withhold from tax sale vacant lots or vacant structures that have been declared by code enforcement as unfit for habitation. County can immediately foreclose on these properties in a special <i>in rem</i> foreclosure (JIR) action that results in clear title transferred directly to the County.	Yes, but need to pass ordinance
<i>Withhold Certified VAT Property from Tax Sale for Redevelopment and Foreclose</i> ²¹	County can establish a range of criteria for declaring certain vacant lots, or vacant structures that are unfit for habitation eligible to be withheld from tax sale for redevelopment purposes. If withheld, the County can foreclose in the same manner in which it can currently foreclose on a tax certificate.	Yes, but not used
<i>Declare Property Abandoned and Accelerate Foreclosure; If No Bidders, then County Acquires Certificate</i> ²²	County can declare property abandoned in advance of the tax sale, offer the tax sale certificate at a lower price (less than all taxes, interest, penalties, fees, and costs due), and if no one bids then the County acquires the certificate and can immediately foreclose.	Yes, but not used

Figure 3: Legal Tools Available to the County to Direct the Path of VAT Properties

Because some of these tools are not used, and because vacancy is not reliably tracked, it is difficult to know exactly how many properties could be subjected to the use of these tools. What is known, is that without these tools in place, the only way for the County to intervene in VAT properties through the delinquent property tax enforcement system is to hope that private investors do not bid on the properties at the tax sale and that the County acquires the certificate.

Figure 4 highlights what we do and do not know with respect to the scale of tax delinquent properties in Prince George’s County.

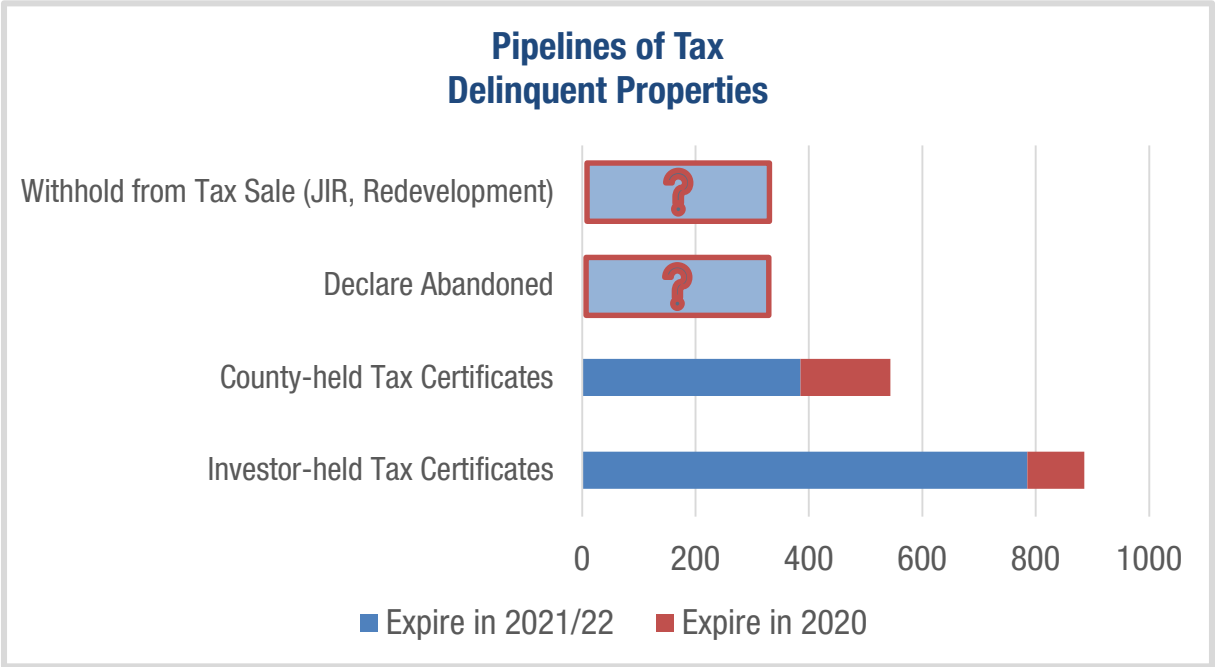


Figure 4: Tax Enforcement Pipelines in Prince George's County

Properties with an outstanding tax certificate held by either the County or by an investor are located throughout Prince George’s County, but there are high concentrations of these properties in (in order) Capitol Heights, Hyattsville, Upper Marlboro, Fort Washington, and Bowie. The map below shows tax certificates held by the County in blue dots, and tax certificates held by a private investor in green dots.

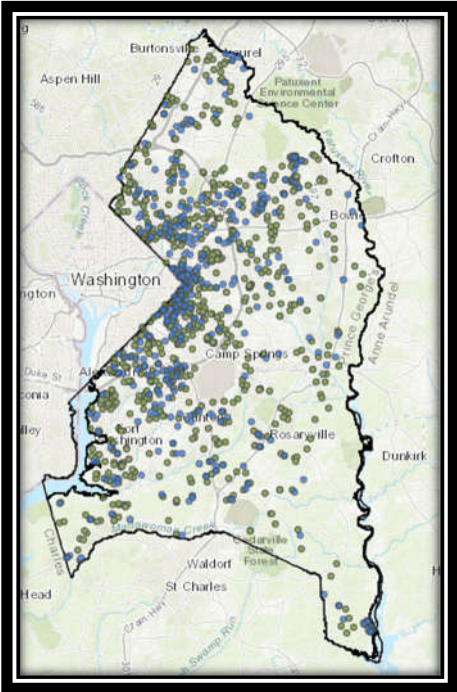


Figure 5: Outstanding Tax Certificate Locations

b. Why Vacant and Abandoned Properties are a Problem and Challenges and Opportunities of the Existing Code Enforcement System

Vacant properties require a significant investment of public services to keep neighbors and the neighborhood safe, including the need to more frequently enforce housing and building code violations and abate hazardous conditions or nuisances. Code enforcement is a local government's primary tool to address these issues.

As the County's code enforcement arm, DPIE is charged with addressing most problems with vacant properties in the County and it has a variety of useful legal tools to do so, including the ability to issue civil fines for violations and to abate hazardous conditions and seek reimbursement for its costs by adding those costs to the property tax bill. DPIE maintains an internal list of properties that it considers vacant and abandoned, many of which required some type of nuisance abatement action or clean up. Though the list may be in need of an update per DPIE staff, it contains 1,024 properties, after being scrubbed for addresses that did not pinpoint any particular location. The Prince George's County Open Data Portal revealed another 51 properties on which DPIE issued a notice in the last four years that the property was vacant and unfit for habitation and which do not already appear on their larger vacant and abandoned list.²³ Thus, there is a total of roughly 1,075 properties DPIE has determined are vacant and abandoned in Prince George's County.



Properties where DPIE has incurred costs to abate a nuisance on the property or declared the property unfit for habitation *present an opportunity* for the County to intervene, gain control of VAT properties, and direct them to a new responsible owner. This can happen in a couple of different ways through better coordination of code enforcement with delinquent property tax enforcement:

- If DPIE has had to abate a nuisance on a property, those costs can be added to the property tax bill. If the owner fails to pay the taxes, the presence of the abatement costs may discourage some private investors from bidding, meaning the tax certificate may have a greater chance of being acquired by the County and, potentially, transferred to a land bank to foreclose and gain control.

- Properties that have been declared unfit for habitation or that are vacant lots may be eligible for new delinquent property tax enforcement tools that have not been adopted (JIR) but could help to streamline the acquisition of VAT properties by a land bank in the future. These tools are briefly summarized in Figure 3 in the previous subsection.

The properties identified as vacant and abandoned by DPIE are reflected as green dots in the map below. The municipalities with the top 5 number of these properties are (in order), Capitol Heights, Temple Hills, Hyattsville, Fort Washington, and Upper Marlboro.

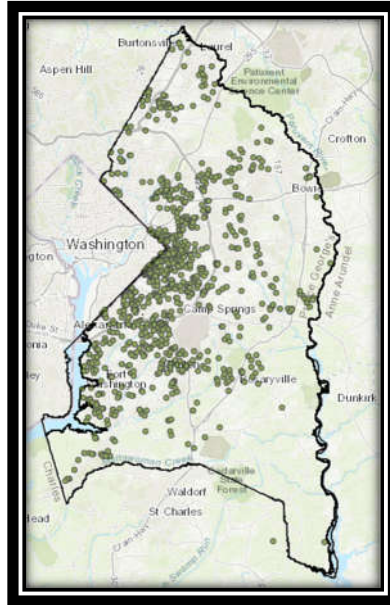


Figure 6: Vacant and Abandoned Properties in Prince George's County

A heat map of the properties that are tax delinquent *and* identified as vacant and abandoned by DPIE shows the relative concentration of these properties in the inner beltway municipalities.

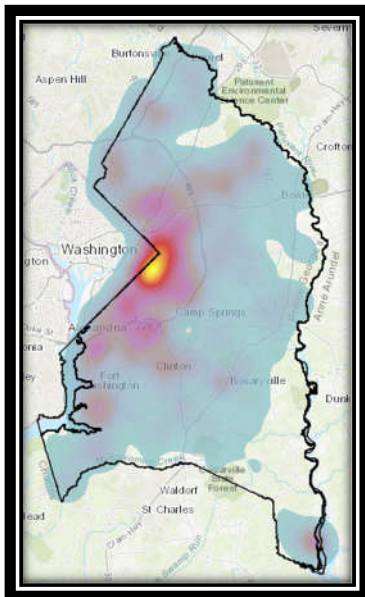
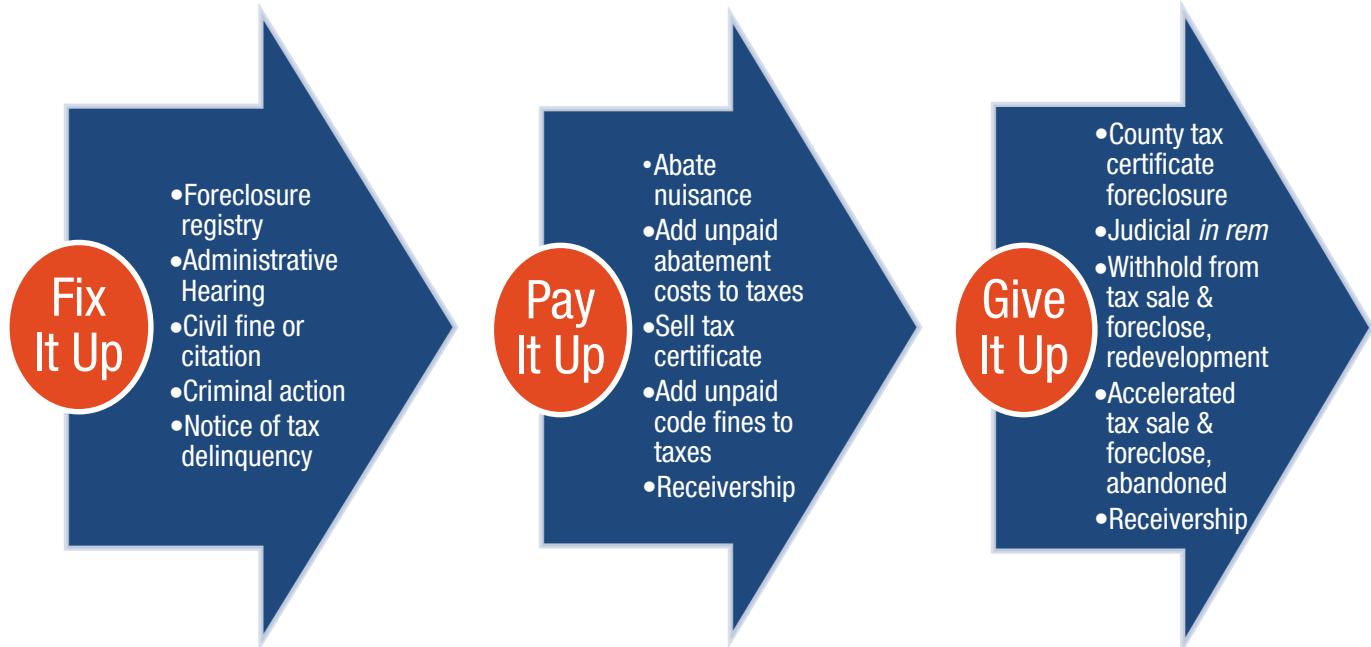


Figure 7: Tax Delinquent and Vacant and Abandoned Properties in Prince George's County

Tax Delinquent (Finance) Top 5		Vacant/Abandoned (DPIE) Top 5	
Capitol Heights	221	Capitol Heights	248
Hyattsville	191	Temple Hills	109
Upper Marlboro	132	Hyattsville	105
Fort Washington	121	Fort Washington	103
Bowie	107	Upper Marlboro	102

2. How can existing laws and policies address the current VAT property inventory?

The County has at its disposal a variety of tools to compel a VAT property owner to comply with local housing and building codes, to allow the County to abate any hazardous or nuisance conditions if the owner fails to comply, and to compel the transfer of the property if the owner fails to comply or repay



the County for costs incurred. However, these tools are not currently coordinated effectively as part of a more comprehensive “fix it up, pay it up, give it up” approach to VAT properties. Figure 8 below indicates some of the key tools available to the County that could be better coordinated to develop such an approach.

Figure 8: Fix it Up, Pay it Up, Give it Up Tools in Prince George's County

The County has adopted a variety of codes related to housing and property maintenance, building construction, and exterior property conditions like weeds and litter. Violations of each of these codes may be enforced by the County’s code enforcement arm, DPIE, in several ways, though the most common enforcement tool is the newly adopted process to assess civil fines through an administrative hearings process. As mentioned in the previous subsection, the County also has broad authority to abate code violations and seek recovery of its costs by assessing the costs as a “tax lien” against the property. Practically, this means that if civil fines and/or the administrative hearing process fail to compel the owner to fix the property, then the County has the authority to abate the problem for them. The ability to do so and then add these costs to the tax bill means the County has what is generally considered one of the best ways to encourage the owner to pay the back the costs, or risk losing the property.

What is missing in the County is the ability to better coordinate this entire approach and tie it into the “give it up” component of the process. For example, the County’s ability to compel the transfer of the property is complicated by the fact that, the County is required to try to sell the

delinquent property tax debt to a private investor before the County can intervene in the form of a tax certificate. These investors are primarily motivated to make a profit from the purchase of the tax lien as opposed to seeking to gain title to the property and finding a productive use for the property in line with local needs and priorities for land.

The County could and should adopt and implement those new tax enforcement tools described in Figure 3 in the previous subsection and referenced in Figure 8 above. If the County can better monitor and identify those vacant lots or vacant structures that are declared by DPIE as unfit for habitation for delinquent taxes, it could greatly improve its ability to compel the transfer of VAT properties to a temporary flexible steward like a land bank or directly to a new responsible owner through the current department responsible for selling County surplus land such as the Office of Central Services (OCS) or possibly a hybrid approach of creating a land banking program that is run through an existing County agency like the Redevelopment Authority of Prince Georges County. As we describe in greater detail in the next subsections, there are pros and cons to each approach, however, given the ultimate goal stated by the County is to create a pipeline of VAT properties to support affordable housing, a land bank can address many of the challenges reiterated by local nonprofit and community stakeholders by eliminating significant oversight by County Council required by local law and policy and selling property based on the highest outcome and not the highest bid.

The County has not yet adopted a land bank under the existing Maryland land bank enabling legislation (the “Land Bank Law”). The Maryland land bank law is not perfect, and opportunities exist to, for example, allow a land bank to participate in the delinquent property tax enforcement process more directly or to access additional funding. But the legislation provides a good foundation to create a land bank for the sole purpose of acquiring VAT properties and stewarding them towards equitable opportunities for reuse aligned with community priorities and needs for land, such as affordable housing. A summary of key elements of the Land Bank Law is below.

	Brief Overview	Preliminary Observations
Creation	<ul style="list-style-type: none"> ▪ County Council passes ordinance establishing land bank name, board members, purpose of land bank, and land bank powers ▪ Nonprofit or “quasi-governmental” entity ▪ One or more local governments can form a land bank through intergovernmental cooperation agreement 	<ul style="list-style-type: none"> ▪ County may not need to enter into agreement with municipalities to operate within municipalities located in County, though may be worth exploring agreements to tee up conversations about memorializing partnerships, coordinating services (e.g., code enforcement), or future funding
Governance	<ul style="list-style-type: none"> ▪ Ordinance must establish board, board powers, duties, removal procedures, term length, and other board details ▪ Must provide annual report on land bank activities to County and subject to ethics laws 	<ul style="list-style-type: none"> ▪ There is little direction on the number of board members that can be appointed and other details on board powers and duties. ▪ Unclear if a land bank is subject to state open meetings or open records laws
General Powers	<ul style="list-style-type: none"> ▪ Broad powers include ability to acquire/hold property in land bank’s name, sue and be sued, borrow, and invest money, 	<ul style="list-style-type: none"> ▪ Enumerated powers in Land Bank Law are broad, and include the power to “do all things necessary or convenient to carry out the powers

	enter contracts, provide acquisition/management/sale services to local government for public property, enter into agreements for in-kind services with local government.	expressly granted by [the Land Bank Law] or by an ordinance adopted under [the Land Bank Law]”
Acquisition and Connection to Tax Enforcement	<ul style="list-style-type: none"> ▪ Broad authority to acquire by “gift, devise, transfer, exchange, foreclosure, purchase, or otherwise” ▪ Can be appointed as receiver ▪ Can acquire County’s interest in tax certificates and in land foreclosed by County 	<ul style="list-style-type: none"> ▪ Limited special powers to intervene directly in tax enforcement ▪ County’s adoption of full range of available tax enforcement tools (e.g., Judicial <i>in rem</i> tax foreclosure) could increase pipeline of VAT properties
Manage, Maintain, & Quiet Title	<ul style="list-style-type: none"> ▪ Holds property tax exempt ▪ May “hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, or demolish...and take all other actions necessary to preserve the value of” property in its inventory ▪ Must comply with land use controls, permitting requirements, zoning laws ▪ Can conduct bulk quiet title actions 	<ul style="list-style-type: none"> ▪ Land Bank Law does not explicitly require County to maintain inventory up to local codes, though requiring this in ordinance (and actually maintain inventory to code) would help build trust as a good neighbor ▪ Bulk quiet title may be helpful to address other inventories of vacant, publicly owned land with title defects
Disposition	<ul style="list-style-type: none"> ▪ Can sell, lease, transfer or dispose of its interest in property ▪ No other specific limitations on authority to dispose 	<ul style="list-style-type: none"> ▪ Ordinance establishing the land bank could presumably clarify land bank’s ability to transfer property for any amount or type of consideration, including nonmonetary consideration such as the new owner developing the property for community good (e.g., affordable housing) ▪ Ordinance would need to clarify whether board or County Council approval is required to move forward with certain dispositions
Funding	<ul style="list-style-type: none"> ▪ Retain income for sale of inventory ▪ Earn income from services like quieting title or managing and maintaining County land ▪ Can retain redemption payments on tax certificates transferred from County ▪ Can issue bonds 	<ul style="list-style-type: none"> ▪ Unlikely that existing tools to raise revenue will fully fund land bank operations given VAT properties will likely constitute the majority of a land bank’s inventory ▪ May still require dedicated annual funding for land bank operations from County

Figure 9: Key Elements of the Maryland Land Bank Law

For additional information about the tools available to address VAT properties in Prince George’s County, see Appendix B.

3. What other policy and practice barriers limit the County’s existing ability to identify, coordinate the acquisition of, and transfer VAT properties to support affordable housing and public good?

To create an effective and efficient pipeline of VAT properties that could be used to support affordable housing or public good—either with or without a land bank—the County will need to address several additional barriers identified during our research and interviews. Inconsistent and fragmented collection of property related data, for example, limits the County’s ability to design a program to scale and to be more proactive at identifying and setting in motion the tools needed to acquire VAT properties for reuse. **Property is rarely acquired by the County as part of a comprehensive and coordinated plan, and laws and policies governing dispositions can be burdensome and often drawn out. This makes it difficult for many partners, including smaller nonprofit affordable housing partners, to participate in the disposition process.**

a. Inconsistent and fragmented data collection

As noted, at the outset of the engagement Community Progress requested the County supply a range of data sets with the overarching goal of understanding the scale of vacancy in Prince George’s County and to get a preliminary handle on a potential land bank inventory. The process of seeking answers to our requests for data took several months and involved conversations with the following County departments and public agencies:

- Office of Information and Technology (“OIT”) to assess general availability and access to centralized data
- Office of Finance (“Finance”) to assess data related to vacant tax delinquent parcels
- Department of Inspections, Permitting, and Enforcement (“DPIE”) to assess data related to vacant properties subject to housing and building code enforcement
- Planning Department, staffed by Maryland-National Capital Park and Planning Commission (“M-NCPPC”) to assess the data related to vacant publicly owned parcels
- Office of Central Services (“OCS”) to assess and confirm the availability of data related to vacant publicly owned parcels, as well as data related to how such parcels were acquired

This exercise was informative, and stakeholders we spoke with were—and continue to be—responsive and gracious with their time and knowledge. As is common in data collection practices among public entities across the country, however, there were several key findings that impacted Community Progress’ ability to gain clear answers to our data requests:

- **Vacancy is not reliably or systematically tracked.** While there may be a way to pick out a single parcel and find some source of data that indicates the parcel is vacant, vacancy is simply not tracked in most of the County databases that we requested information from. DPIE maintains their working list of just over 1,000 vacant and abandoned properties, but the list is informal and, according to DPIE, may be largely outdated.
- **Parcel data is scattered across multiple agencies and there is no central platform to share, organize, and analyze various parcel data sets.** The need to communicate with at least 5 different departments to request property data highlights the siloed nature of how data is collected and stored across the County. Moreover, each Department database appears to collect and store data in different ways, which makes it hard to compare various data sets. For example, Finance and DPIE both maintain extensive property records, but they use different methods of collecting and tracking the data that make it difficult to compare.

- **Public-facing data tools to analyze parcel data are insufficient.** The County maintains an Open Data Portal and a GIS Open Data Portal that contain a huge amount of data sets that are extremely helpful to answer certain, specific questions (e.g., residential and commercial building permits issued by DPIE), though not questions related more broadly to vacant property.²⁴ Someone skilled in computer science or GIS may be able to avail themselves of the full utility of these tools, but most public users who want to research more broad property or parcel-related questions cannot.

b. Lack of Coordination and Resources within County Departments and Limitations with Public Property Disposition Process

The County has a variety of tools, including a series of capable County agencies and partners, that can be used to acquire VAT properties for public purposes, including for purposes related to economic development and the development of affordable housing. In fact, the County provided data revealing it owns nearly 1,000 “vacant sites” that it has acquired over the years through either tax or lien foreclosure or some other method.²⁵ These properties mostly appear zoned for residential use, though the data also indicates that many of them may be tiny (< 0.1 acre) and potentially undevelopable.

In any event, most County entities that acquire VAT properties are focused on acquiring and disposing of land for specific or targeted development reasons or to acquire land for use as County facilities, public parks, or other public uses.²⁶ Community Progress’ research and interviews also revealed that while most agencies are doing good work in their intended lane, each agency tends to operate in their own silos instead of as part of more comprehensive, coordinated plan.

For example, the County’s Office of Central Services (“OCS”) is generally in charge of acquiring land on behalf of the County and declaring lands owned by the County as surplus that may be offered for sale to the public or transferred to another public entity—this includes the list of nearly 1,000 vacant sites referenced above.²⁷ The Redevelopment Authority is primarily focused on acquiring land with the intent to “decrease the number of blighted commercial and residential structures within a 1/2 mile radius of existing transit centers and improve the quality of life for the residents of Prince George's County.”²⁸ The Revenue Authority is a self-described “quasi-governmental” agency that acquires land in support of its and the County’s real estate development goals and also serves as a development finance agency. The Housing Authority has the authority to acquire land for the purpose of supporting its mission of developing and providing affordable and supportive housing to qualified residents. These entities are not the only County departments or agencies that have the authority to acquire, develop, or dispose of land, but the collective authority held by each of these departments or agencies to acquire and dispose of land in support of public use and community needs for land is a good representative sample of the County’s existing authority to acquire and dispose of land.

The County’s ability to dispose of property generally, such as OCS’s sale of surplus property, is limited for a number of reasons, including a substantial oversight process to ensure compliance with laws and policies governing the disposition of publicly owned property. Generally, surplus property is advertised and offered for sale at public auction to the highest bidder. The County Council must declare each property as surplus and approve a minimum purchase price. Based on a review of the OCS website, the opening bid for surplus property is generally set at the fair market value for the property.²⁹ County law does allow OCS to offer surplus properties first to municipalities or the M-NCPPC,³⁰ and in certain cases

to public or private partners who may choose to develop affordable housing,³¹ but these transactions are still subject to the oversight and approval of County Council, and conversations with stakeholders revealed opportunities are limited, unclear, and may take more than a year. These limitations appear to complicate the County's ability to nimbly and flexibly dispose of property to support local needs for land by, for example, selling property to a small nonprofit developer in exchange for non-monetary consideration, which may include consideration in the form of a benefit the new owner will provide to the community (e.g., affordable housing or new grocery store). Notably, these are powers many land banks across the country have.

The County's tools are useful and important, but there may also a need for an entity like a land bank with a dedicated focus on (a) mitigating the harms imposed by VAT properties, many of which are likely single parcels scattered across Prince George's County; (b) using its special powers to acquire VAT properties through tax foreclosure and other means, and (c) using its authority to flexibly and nimbly work with the County's various departments and agencies, municipalities, nonprofit partners, residents, and other partners to support the ways in which VAT properties can be reused in line with a wide variety of needs for land, which may include single family or multifamily affordable housing, the development of workforce housing, open spaces or parks, and stormwater management, among other needs. In addition, the nearly 1,000 vacant sites owned by the County suggests there may be at least a few opportunities to review existing publicly owned land to determine potential reuse opportunities that a County program or land bank could help to facilitate.

c. Barriers to Accessing Land for Affordable Housing by Nonprofit Affordable Housing Organizations

Community Progress interviews revealed that nonprofits—particularly nonprofits focused on developing affordable housing—are effectively shut out of most County programs offering developable vacant land. As mentioned previously, most County programs that offer to sell vacant land are either required or designed to prioritize the sale of that land to the highest bidder. For example, OCS's "Grand Slam" program was launched in 2019 to market and sell some of the more desirable publicly owned vacant sites. Interested parties were required to submit a bid that proposed a use for the site that was consistent with the County's overall Policy Focus areas. However, bids were also required to start at fair market value, and the bidding organization's financial capacity, ability to close, and ability to offer an "attainable" development timeline were cited as factors for the County to assess in the organization's bid.³² For many smaller nonprofits focused on affordable housing development, these and similar requirements means they are often forced to bid against well-funded private developers. For many smaller nonprofits focused on affordable housing development, this means they are forced to bid against well-funded private developers.

Some nonprofits reported that there had been some luck acquiring limited surplus lands in the past, but that the knowledge for how those deals could be facilitated at the County was consolidated into a single point of contact, and once that contact left the knowledge was gone. More recently, nonprofits reported waiting several years to acquire certain surplus vacant land.

III. Preliminary Recommendations and Considerations

Many of the findings and preliminary recommendations and considerations in this report are complementary with those in HOFA and affirm the importance of leadership and interdepartmental

coordination, data, engagement with municipalities and nonprofit partners, and the need for a flexible, inexpensive pipeline of property to support the affordable housing challenges in Prince George's County. While our overarching finding is ***a land bank could be valuable for Prince George's County***, there are several immediate opportunities to better utilize and coordinate existing tools at the County's disposal to address VAT properties that will only stand to make a land bank more effective in the long run.

Particularly given the challenges that many local governments are facing from the COVID-19 pandemic, the preliminary recommendations and considerations in this section are categorized in four categories and are listed in each category in the order of resources needed for implementation (easier to implement in the beginning):

1. **Preliminary Recommendations Using Existing Tools:** These are immediate actions that can be taken to improve coordination between departments, advance data collection, and begin to unlock a limited pipeline of land for affordable housing and other local community goals.
2. **Preliminary Considerations for the Creation of a Land Bank:** If the County does decide to move forward with a land bank, there are several decisions that will need to be made regarding the legal structure, governance, access to inventory, policies and priorities, and funding.
3. **Preliminary Recommendations for State Law and Local Policy Changes regarding VAT Properties:** These are longer term potential changes to state law and local policy regarding VAT properties.
4. **Preliminary Recommendations for Changes to the Maryland Land Bank Law:** These are longer term potential changes to state law and local policy regarding land banks.

1. Preliminary Recommendations Using Existing Tools

- a. **Renew support and expand focus and membership of Land Bank Task Force.** The County Executive should renew her support and expand the focus of the Task Force to not just land banking but to all tools available to address VAT properties and rename it to be the VAT Properties Task Force. Expanding the membership of the Task Force to include: i) additional County departments that are greatly impacted by VAT properties such as Public Safety; ii) representation from County Council; iii) municipalities that are most impacted by VAT properties; and iv) nonprofit affordable housing organizations that are familiar with the County's VAT property challenges could ensure a more comprehensive and inclusive approach. The VAT Properties Task Force should be chaired by a high-level County leader that has the authority to proceed with the data recommendations listed below, set goals, track action items, and ensure coordination, accountability, and transparency among County, municipal, and community members.
- b. **Standardize data collection and track vacancy on County property investigation forms.** The County should establish a point person from the County Executive's Office to work with the VAT Properties Task Force and specifically OIT, DPIE, Finance, Police, and Fire—and a new land bank director, if one is hired—to reach consensus on a common

and uniform way to track property or inspection data using a geocoded property identification number. This will set the stage for improved integration, mapping, and analysis of all data across County departments and agencies. The County should also establish uniform methods for tracking property data on all forms across all departments that inspect properties, including DPIE, Police, and Fire. At a minimum, all inspection reports should clearly mark whether a property is vacant or occupied. In addition, the County should consistently and routinely track existing data that might indicate vacancy. Some important data points to track that can help to determine whether a property might be vacant: (a) water shut offs of longer than six months, (b) other utility (electric, gas) shut offs, and (c) U.S. Postal Service vacancy data through the Department of Housing and Urban Development.³³

- c. Centralize the collection and management of property and neighborhood condition data in an accessible, public-facing platform.** Task the same point person from the County Executive’s Office to work with the VAT Properties Task Force and specifically OIT, DPIE, Finance, Police, and Fire—and a new land bank director, if one is hired—to create a central, public-facing platform to standardize, share, and analyze property data and neighborhood conditions and trends, including, for example, (a) vacancy, (b) data that could indicate potential vacancy (e.g., USPS data, utility shut offs), (c) tax delinquency, (d) property and neighborhood conditions, and (e) code enforcement activities and other related data sets highlight County efforts to address problem properties.

This centralized platform should allow users to map the data and could also include map layers that allow the user to compare the County data with U.S. Census data or other sources of demographic information. If possible, all data should be capable of disaggregation by race, household income, and other relevant information.³⁴

If existing County platforms do not support this purpose, there are a variety of vendors and outside partners that can help communities integrate existing data and compare and/or layer with other key data related to race and other socioeconomic data, population trends, and other data sets. Some of those vendors have extensive experience working with local governments; platforms that might be interesting to explore include Tolemi’s Building Blocks Platform or Loveland Technologies’ Landgrid.³⁵ The city of Rochester, New York has utilized the Building Blocks platform.³⁶ The Lucas County Land Bank uses the Landgrid platform to display data from a citywide parcel survey for Toledo, Ohio.³⁷

- d. Adopt judicial *in rem* tax foreclosure.** The County should enact an ordinance and supporting policies and procedures establishing a system of judicial *in rem* tax foreclosure. Judicial *in rem* tax foreclosure is a tool that allows the County to withhold certain vacant properties from the tax sale and file a special *in rem* complaint to foreclose the owner’s right of redemption as early as 6 months from the date the property was first considered delinquent—this could occur as early as May of the year following the year the taxes were due. Judicial *in rem* foreclosure is intended to accelerate the County’s ability to file an action to foreclose and to acquire clear and insurable title to the property.

Only property that is a vacant lot or an “improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice” may be designated for foreclosure under the judicial *in rem* statute.³⁸ In addition, the total

amount of unpaid tax liens on the property must exceed the value of the property as last determined by the County Assessor or by an appraisal conducted in the previous 6 months.

Given the ability to bypass the annual sale of tax certificates, accelerated foreclosure time frame, quality of title acquired, and the overall control over the process accorded to the County by judicial *in rem* tax foreclosure process, it is likely that this will be one of the more effective tools for the County or a potential County land bank to acquire problem properties.

Maryland law prescribes what is needed in the ordinance establishing such a system, and Baltimore City's recently passed judicial *in rem* tax foreclosure legislation provides a sample framework on which the County may wish to draw from in the development of its own ordinance.

- e. **Adopt a procedure to withhold certain tax delinquent properties from the tax sale for redevelopment purposes.** The County can withhold vacant lots and properties that have a building or structure that is vacant and unsafe or unfit for habitation from the annual tax sale if the County has designated the property for redevelopment. The County must find that withholding the property from the tax sale will “eliminate a blighting influence” or “prevent the tax abandonment of the property.”³⁹ The County should consider adopting this tool and outlining a process where qualified VAT properties are designated for redevelopment and withheld from the tax sale. The County should limit the universe of properties eligible for this process to those properties where the value may *exceed* the total amount of taxes, penalties, and interest due, or other types of problem properties that may qualify for withholding for purposes of redevelopment but would not qualify for withholding for use of the judicial *in rem* foreclosure tool (see previous recommendation).
- f. **Adopt a process to identify “abandoned” properties and accelerate tax foreclosure.** At the tax sale, the Office of Finance can set a bid that is lower than the amount of taxes due, interest, and penalties if the property is abandoned. Abandoned property is defined as a vacant lot or an “improved property cited as vacant and unfit for habitation on a housing and building code violation notice.”⁴⁰ If the tax certificate for abandoned property is purchased at the tax sale, the tax certificate holder may foreclose on the tax certificate at any time. If the County acquires the tax certificate, it may also foreclose on the tax certificate at any time. The County can also transfer its interest in a tax certificate for abandoned property, including its power to foreclose at any time, to a land bank established under Maryland law. Finance will want to carefully consider how low it wants to set the minimum bid for this process, so it does not attract a speculative private bidder and subvert the opportunity for the County or a land bank to acquire the certificate, foreclose, and put the property on a path to reuse for public good.
- g. **Consider the development of a policy that would allow nonprofits preferred access to County surplus land to support affordable housing goals identified in HOFA.** In the absence of a land bank, there is a simple reform that could still help affordable housing developers improve access to surplus land. The County Executive has the authority to sell surplus property to a nonprofit partner “under terms and conditions which will, in the determination of the County Executive, promote a specific public purpose, limited to elderly housing, affordable family housing, transportation, not-for-profit sport and

recreational uses, and day care centers for children or adults.”⁴¹ The plan and purchase price must still be submitted to and approved by County Council, but this authority allows the County to design a program that could give nonprofit affordable housing partners the ability to have a first crack at properties that come available through OCS’s surplus program. VAT properties identified using improved data collection and analysis and acquired by the County using new tax foreclosure tools, could be directed into this program. It would likely require dedicated staff not just to facilitate transactions, but to work with the VAT Properties Task Force, and particularly DPIE and Finance, to coordinate the use of tools to address and acquire VAT properties, and to build relationships with nonprofit, municipal, and community partners to identify needs and opportunities for affordable housing. Such a program might be more limited and less flexible than a new land banking entity but could also support many of the affordable housing goals identified in the HOFA.

2. Preliminary Considerations for the Creation of a Land Bank

The above recommendations take advantage of existing tools available to the County to better coordinate, improve data, and unlock a limited pipeline of land for affordable housing and other local community goals. If the County does decide to move forward with a land bank, we do recommend for it to be a separate public entity and not a program of an existing department or authority like the County’s Office of Center Services or the Redevelopment Authority of Prince George’s County, which has been referenced in HOFA as one of the potentially viable options. Below is a chart that provides a quick snapshot of some of the differences and advantages of a land bank being a separate entity versus a County program.

	Separate Public Entity	Prince George’s County Office of Central Services Program
Legal Structure	Incorporated as a 501c3 nonprofit corporation or quasi-governmental entity (created through local ordinance as County Land Bank or through Intergovernmental Cooperation Agreements with 2 or more municipalities)	County Department
Governance	Board defined by statute or Intergovernmental Cooperation Agreement	County Executive, County Council
Mission	Stabilization and revitalization of VAT properties to support local goals	Acquire, lease, and manage County’s inventory of real property, dispose of County’s surplus real property
Acquisition	Special acquisition powers through tax foreclosure or public lien enforcement, no eminent domain	General acquisition powers available to County, including eminent domain
Tenure of Ownership	Temporary with ability to hold/maintain long term	Temporary with ability to hold/maintain long term
Disposition	Flexibly dispose of land in line with community goals, and for any consideration	Limited disposition requirements
Funding	Access new funding sources, particularly with nonprofit status	Contingent solely on County approving programmatic funding

Figure 10: Land Bank v. County Program

A separate land bank entity has the potential to:

- Ensure *focus on specific subset of properties causing the most harm* to residents and costing the County and its municipalities in public safety, lost taxes, and declining property values; and inaccessible to the private market given the various financial legal challenges
- Create a *more inclusive governance structure* to ensure that municipalities and residents most impacted by VAT properties have a seat at the table
- Provide more *flexibility and transparency* in site assemblage for nonprofits to support affordable housing and other community goals
- Open up *potential new funding sources* if the land bank is created as a nonprofit

Below are a few considerations for the County to consider if a land bank is created:

- a. **Decide how to create the land bank authority.** The Maryland Land Bank law allows the County to establish a land bank authority on its own. There do not appear to be any restrictions that would prevent the County from operating anywhere within the geographic boundaries of Prince George's County.

However, a critical feature of a land bank is the ability to respond to locally defined needs and priorities for land. These needs and priorities are likely different across each municipality in Prince George's County, as well as its unincorporated areas. This means that the various municipalities in Prince George's County are critical partners to help inform and guide land bank activities in their municipalities.

The County must decide the best way to secure the buy-in and participation of these municipal partners, and to memorialize what is required and expected of participating members in some form of agreement. While it would be wise to consult with local legal counsel to discuss a full range of options, it appears there are two primary ways the County may approach this matter.

- i. **Create the land bank in partnership with interested municipalities, authorized by an IGCA.** The Land Bank Law allows two or more local governments, which could include the County and as many municipalities located within Prince George's County as are interested, to enter into an intergovernmental cooperation agreement ("IGCA") to create a single land bank to act on behalf of the local governments.⁴² Water and sewer authorities can also be part of an IGCA establishing a joint land bank. The County would still be the incorporating entity, but the IGCA—not a County ordinance—would essentially outline the parameters for how the land bank would operate, who would serve on the board, and other key factors essential to creating the land bank.
- ii. **Create the land bank solely as a County land bank, authorized by County ordinance.** This second path may be simpler and allow the County to get the land bank up and running more quickly.⁴³ Municipalities may have less control over the direction of the land bank (e.g., less ability to dictate board membership), but there may also be fewer obligations (e.g., need to participate in governance matters). Municipalities would still need to be critical partners of the land bank, and the County would need to find a way to memorialize municipal participation through less formal individual agreements, or perhaps by establishing a municipal advisory council. Many

county land banks across the country are established in this way, and still engage and collaborate with local leaders and residents to produce positive results.

Whichever path or form of agreement the County decides to pursue, there are a range of provisions the County will need to consider. Some of those provisions could include:

Key Provisions	Considerations for Municipal Agreement
<i>Definitions</i>	<ul style="list-style-type: none"> • Ensure terminology used is consistent with the Land Bank law • Clarify terms used to refer to the County and municipalities • Clarify key terms related to delinquent tax enforcement and housing and building code enforcement • Clarify terms used in reference to specific state or local laws
<i>Purpose</i>	<ul style="list-style-type: none"> • Ensure the overarching purpose of the land bank is clear • Clarify the purpose and importance of the municipality's role in joining or participating in the land bank
<i>Establishing the Land Bank</i>	<ul style="list-style-type: none"> • Clarify how the land bank is created and by what authority • Clarify the structure of the land bank • Clarify how bylaws are created and how they will be adopted • Clarify the relationship of the municipality, the County, and other participating municipalities
<i>Governance</i>	<ul style="list-style-type: none"> • Establish municipality's role, if any, in selecting, nominating, or recommending either initial land bank board members or vacant board member seats • Clarify whether advisory councils (e.g., municipal or community) will be established and what the role and responsibilities of the council might be. Clarify the role the municipality will play, if any, in participating or nominating members
<i>Powers</i>	<ul style="list-style-type: none"> • Clarify the land bank's powers
<i>Open Meetings, Records, and Reporting</i>	<ul style="list-style-type: none"> • Clarify meetings of the land bank are open to the public and subject to the Maryland Open Meetings Act • Clarify land banks records are subject to the Maryland Public Information Act • Clarify the land bank's obligation to annually report its activities to the state General Assembly and whether the municipality has a role • Clarify whether land bank board members and staff are subject to the Maryland Public Ethics law, and to what extent
<i>Funding</i>	<ul style="list-style-type: none"> • Clarify funding streams for the land bank • Clarify whether the municipality will be obligated to contribute funding to the land bank and designate the source of that funding • Clarify that in lieu of cash contributions, the municipality could fulfill funding contributions, if any, with in-kind resources (e.g., staff, office equipment or space, vehicles, etc.) • Clarify the municipality's role, if any, if the land bank issues bonds
<i>Municipal and County Obligations to Share Data and Collaborate on Public Services</i>	<ul style="list-style-type: none"> • Clarify whether the municipality is expected to share certain property- or tax-related data with the land bank or with a particular county organization (e.g., OIT) working to support the land bank • Clarify whether the municipality is expected to coordinate its own code enforcement efforts with similar land bank efforts or with DPIE • Clarify whether the municipality and the land bank may transfer real property between them and the terms of such transfers

<i>Termination of Municipal Membership</i>	<ul style="list-style-type: none"> • Clarify what happens if a municipality seeks to terminate its membership or participation in the land bank • Clarify what happens to land bank property located in the municipality upon termination of the land bank’s membership
<i>Dissolution of the Land Bank</i>	<ul style="list-style-type: none"> • Clarify what happens when the land bank is dissolved • Clarify what happens to land bank property located in the municipality upon dissolution of the land bank

Figure 11: Key Provisions to Consider for Agreement Memorializing Land Bank/Municipality Partnership

- b. With the support of the VAT Properties (or Land Bank) Task Force, identify initial inventory of the land bank.** The County may want to consider for its first acquisitions those VAT properties that are causing significant harm that can be quickly and effectively addressed. These will likely include privately owned vacant properties that are tax delinquent and considered abandoned but also may include strategic properties from the County surplus inventory that can be better served by a land bank.
- c. Set clear, achievable expectations.** The conversations leading up to the formation of a Prince George’s Land Bank have the potential to manage expectations from the very beginning and reinforce that a land bank is simply one tool in the County’s toolbox; a new strategic partner to help the County market and convey VAT properties for productive reuse. The County must establish realistic goals and appropriate programming for its first year. Early successes will build credibility and allow a land bank in Prince George’s County to move forward with broader partnerships and stronger programs in the following years.
- d. Establish a governance structure that reflects the communities in which the land bank will serve, includes critical County leadership, as well as professionals and community stakeholders that will add expertise, relationships, and other support to the land bank.** Given the Land Bank Law is not prescriptive about the appointment and composition of the land bank board, there will need to be some thought given to how to create a board that will build trust with the communities it serves, coordinate resources and inventory from the County, provide expertise in matters such as real estate, property law, fundraising, and community partnerships.
- e. Hire dedicated staff.** As some critical questions are addressed regarding the land bank’s legal structure, governance, and initial inventory, the land bank board will need to discuss what skill sets are needed most to achieve its mission and goals. Although each land bank is different, dedicated staff should have some expertise in board development and management, real property acquisition and disposition, and public administration including grant management and budgeting, community outreach, and mission-driven program development.

The initial stages of this work require personnel who can work well with elected and appointed officials on policy related matters and listen responsively and communicate clearly with a wide range of audiences and stakeholders, particularly those residents that are most impacted by vacancy and abandonment.

- f. Identify funding sources.** Successful land banks require a diverse base of resources to sustain successful and effective operations. Philanthropic resources can and should also be explored and used as “seed capital” in this first year of operation. It will also be critical to get

dedicated funding from the County given the land bank will be taking properties causing the most harm and putting them back to productive, tax paying status. Other initial funding sources will likely include state and federal grants and property sales. A preliminary land bank budget framework is included as *Appendix E*.

- g. Create policies and procedures that will guide the acquisition and disposition decisions of the land bank and reflect priorities of the community.** The land bank will need to create transparent priorities, policies, and procedures to guide its daily work and build a foundation of trust with County and community stakeholders. The process for developing and finalizing these policies should allow for community review and feedback. Once in place, these policies will facilitate decision-making by staff and board and make clear communications possible. A set of sample land bank policies is included as *Appendix F*.
- h. Consider ways to engage broader set of community stakeholders through an advisory committee.** Engaging a broader set of civic leaders will be advantageous in building trust and ensuring communication between the land bank and community partners. This advisory committee could review and discuss proposed policies and procedures before they are adopted and develop a community engagement strategy focused on those areas of the County that are most impacted by vacancy and abandonment. At minimum, the land bank should host quarterly meetings of stakeholders to be held in impacted neighborhoods in Year One.

3. Preliminary Recommendations for State Law and Local Policy Changes Regarding VAT Properties

- a. Establish a comprehensive plan to track and monitor VAT properties starting with a vacant property registration.** The County simply does not know how many vacant properties it has, where they are located, or who owns them and how to get in contact with them. While it is helpful to know this information in case a problem at the property arises, or if the property becomes tax defaulted and may become a potential County or Land Bank target for acquisition, the information could also be helpful to contact owners to assess why certain properties are or remain vacant, and whether the County or the Land Bank can help vulnerable owners explore how they can repair or otherwise reuse the property.

For all of these purposes, the County should consider establishing a vacant property registry and require all owners of vacant buildings/structures to register and pay an annual, graduated registration fee or, in return for a fee reduction, submit a plan to renovate or reuse the property in line with community goals. The city of San Antonio, Texas, has adopted a Vacant Building Program that seeks to register all property owners of vacant buildings within a defined geographic area and then has staff work closely with property owners to develop a plan for reuse.⁴⁴ As reported to Community Progress, San Antonio routinely waives registration fees simply to get in contact with property owners and spur conversations about whether it can support their goals.

- b. Clarify the County's authority to add civil fines assessed against VAT properties to the tax bill.** Unpaid administrative hearings fines are civil penalties and can be assessed as priority liens against the property, meaning they have priority over all other liens except for tax liens or

liens reflecting “other government assessments.”⁴⁵ The County Code does not explicitly allow such liens to be assessed as a tax lien against the property (see subsection d), but the lien may be “collected and enforced in the same way that the County collects and enforces other debts due to it or liens in its favor.”⁴⁶ Local counsel should be consulted to confirm whether civil fines assessed for violations of the County’s Housing Code, Building Code, and other related codes can be assessed against VAT properties as tax liens. If so, the County should consider creating a process by which, as a matter of course, civil fines are assessed against VAT properties as tax liens to discourage bidding at the tax sale, but only if those properties and their owners meet certain criteria (e.g., civil fines should not be assessed as tax liens against owners who are low-income and/or have demonstrated a willingness to comply but simply lack resources to do so).

c. Clarify a receiver’s authority to foreclose on VAT property.

DPIE can ask the Circuit Court to appoint a receiver to take control of problem properties where there is (a) a violation of any provision of the County Code that threatens the public health, safety, or welfare; (b) where the owner has not corrected the violation(s) in a timely manner; and (c) where abatement would “further the County’s housing priorities and policies.”⁴⁷ A receiver can also be a land bank formed under Maryland law.

Among other responsibilities and powers, the receiver is granted the authority to take possession of the property, abate violations, pay property taxes or other government charges or liens, and charge an administrative fee approved by the court. If the owner or another interested party does not reimburse the receiver for any unpaid costs or expenses approved by the court, the court can order a lien in the receiver’s favor against the property. The receiver has the ability to foreclose on its lien in the same way that a mortgage holder might foreclose its interest under Maryland law, but neither Maryland law nor the County Code appear to grant a receiver’s lien priority over other liens. Absent such priority, a receiver might be less likely to take on the work and make the investment needed to bring the property into good repair, especially where there are other liens on the property.

The County should explore whether it has the authority to pass an ordinance that clarifies that a receiver’s lien takes priority over all other liens except liens for taxes or other government assessments in those receivership cases where a County land bank is appointed as the receiver.

d. Expand the types of VAT properties on which the judicial *in rem* tax foreclosure tool can be used. Currently, the judicial *in rem* tax foreclosure tool can only be used if the property is a vacant lot or if the County has declared the property vacant and unfit for habitation. Judicial *in rem* also cannot be used if the property’s market value exceeds the total amount of the unpaid taxes, nuisance abatement liens, as well as interest, penalties, and fees due.

The County should consider identifying other counties who have adopted the tool (currently only Baltimore City) and explore with them amending the judicial *in rem* tax foreclosure statute to eliminate the requirement that the County must declare the property unfit for habitation. In addition, the County and its partners should consider amending the statute to clarify that if a property is subject to a judicial *in rem* tax foreclosure, and the property’s market value exceeds

the total amount of the unpaid taxes, nuisance abatement liens, as well as interest, penalties, and fees due, then the County has the option to create a separate fund and pay into it the difference between the value of the property and the amount due. The statute could also detail a process for the owner to claim these funds. If the owner failed to do so within a reasonable timeframe, the County could recoup the funds.

4. Preliminary Recommendations on Changes Related to the Maryland Land Bank Law

- a. Provide more direct connections to the delinquent tax enforcement process.** The Land Bank Law does not give a land bank the ability to directly intervene in the tax foreclosure process. Instead, a land bank established under the Land Bank Law must rely on the County to exercise its authority to, for example, pursue an action to file a judicial *in rem* tax foreclosure. A County Land Bank could likely be more efficient and effective if it had the authority to either directly intervene, or if the County could assign its authority to intervene directly to the land bank. Key amendments the County should consider exploring with other counties and statewide partners include:
- i. Allow the land bank to file a judicial *in rem* tax foreclosure action on behalf of the County and allow title at the end of the process to pass directly to the land bank.
 - ii. If a process is adopted to withhold property from tax sale for redevelopment purposes, ensure the County has the right to immediately transfer its interest to Land Bank to pursue foreclosure and that foreclosure could result in title being passed to the Land Bank.
 - iii. If a process is adopted to declare property abandoned prior to the tax sale, allow the land bank to submit a 'priority bid' for the property, in the full amount of taxes, interest, and penalties and fees due, and mandate that if such a bid is made the tax certificate is immediately sold to the land bank and that the land bank can pursue foreclosure immediately. Clarify that the bid is a 'credit bid' and does not require the land bank to pay cash.
- b. Increase dedicated funding.** The Land Bank Law fails to provide any reliable streams of dedicated funding to support land bank operations. Given the type of properties on which a land bank focuses, as well as the public benefit it provides, it is critical to create a variety of funding streams to support land bank operations. The County should consider exploring the following options to increase funding with other counties and statewide partners:
- i. Allow the County to establish by ordinance a separate fee or penalty to be charged to owners of tax delinquent properties
 - ii. Allow the land bank to recover up to 75% of property tax revenue collected for up to 10 years after the land bank sells property to a new owner.

IV. Conclusion

A land bank in Prince George's County has the potential to provide dedicated focus and resources to those properties that are causing the most harm to residents and costing the County millions of dollars

every year. This new tool will only be successful if it is coordinated with the County's current tools and programs, leverages reforms to policies and practices that will enable the County to move more VAT properties throughout code enforcement and delinquent tax enforcement, and inclusive of the municipalities and residents that are most impacted by VAT properties, and provides more flexibility and transparency in site assemblage to support affordable housing and the public good.

It is our hope that this report provides tangible ways for the County to better utilize and coordinate existing tools to address VAT properties and how a new tool like a land bank can protect the equity of legacy homeowners, protect the public safety of citizens, and create opportunities to transform what can rightfully be seen as a stain in many communities of color across the community into an asset that supports the affordable housing goals identified in HOFA that will benefit generations to come.

V. Appendices

- A. Supporting Data Sets/Materials
- B. Legal and Policy Review, including toolbox chart and MD land bank law summary
- C. List of Local Advisory Team, Land Bank Task Force, and Interviewees
- D. Presentation from Land Bank Webinar to Prince George's County Stakeholders
- E. Sample Land Bank Budget Framework
- F. Sample Land Bank Priorities and Policies

¹ A land bank is a public entity with legislated governmental powers, usually special purpose nonprofit corporations or public authorities, that are solely focused on converting vacant, abandoned and tax delinquent properties into productive use.

² The full Comprehensive Housing Strategy (HOFA Report) can be viewed here: <https://www.princegeorgescountymd.gov/DocumentCenter/View/26486/CHS---Housing-Opportunity-for-All-with-appendices---FINAL-updated-8-5-19>

³ A land bank is a public entity with legislated governmental powers, usually special purpose nonprofit corporations or public authorities, that are solely focused on converting vacant, abandoned and tax delinquent properties into productive use.

⁴ To learn more about the Center for Community Progress, please visit www.communityprogress.net.

⁵ For a full description of data collection, please see Appendix A.

⁶ For a full analysis and summary of state and local laws and policies, please see Appendix B.

⁷ For a full listing of the local advisory team, land bank task force, and interviewees, please see Appendix C.

⁸ For a presentation on land banking and best practices that was given to a variety of Prince George's County stakeholders, please see Appendix D.

⁹ For a full listing of the local advisory team, land bank task force, and interviewees, please see Appendix C.

¹⁰ The need for equitable resources to support vulnerable property owners is of much greater concern when the property is occupied, as opposed to vacant, though great care must always be taken to ensure individuals, families, and heirs are not stripped of generational wealth or equity.

¹¹ See more about an equitable, efficient, and effective approach to code enforcement in Community Progress' report, ***Alternative Strategies for an Equitable, Efficient, and Effective Code Enforcement System in Mobile, Alabama*** (June 2016), available at: https://www.communityprogress.net/filebin/FINAL_Strategic_Options_for_Mobile_Alabama_Code_Enforcement_June_2016.pdf

¹² A comprehensive overview of land banking can be found in two Community Progress publications including *Land Banks and Land Banking* (2nd Ed.) by Frank Alexander available at: <http://www.communityprogress.net/filebin/LandBanksLandBankingVer2DigitalFinal.pdf> and *Take It To The Bank: How Land Banks Are Strengthening America's Neighborhoods* written by Tarik Abdelazim and Payton Heins at:

[http://www.communityprogress.net/filebin/Center for Community Progress - Take it to the Bank - 2014 - Updated Online Version.pdf](http://www.communityprogress.net/filebin/Center%20for%20Community%20Progress%20-%20Take%20it%20to%20the%20Bank%20-%202014%20-%20Updated%20Online%20Version.pdf).

¹³ The general legal authority and parameters for a potential County land bank to pursue these types of properties will be explored in the following subsection.

¹⁴ There are a variety of studies that Community Progress has commissioned with Dr. Dan Immergluck, a professor at Georgia State University, that evaluate the direct and indirect costs imposed by vacant property on local governments and the community. These include *A Conservative Analysis of Costs Imposed by Vacant and Abandoned Property in Toledo* (Community Progress 2016) available at: https://www.communityprogress.net/filebin/160630_TASP_LCLRC_Toledo_Cost_of_Blight_Study_Final.pdf; *The Cost of Vacant and Blighted Properties in Pittsburgh: A Conservative Analysis of Service, Tax Delinquency, and Spillover Costs* (Community Progress 2017) available at: [https://www.communityprogress.net/filebin/The_Cost_of_Vacant_and_Blighted_Properties_in_Pittsburgh - A Conservative Analysis of Service Tax Delinquency and Spillover Costs Center for Community Progress.pdf](https://www.communityprogress.net/filebin/The_Cost_of_Vacant_and_Blighted_Properties_in_Pittsburgh_-_A_Conservative_Analysis_of_Service_Tax_Delinquency_and_Spillover_Costs_Center_for_Community_Progress.pdf); and *The Cost of Vacant and Blighted Properties in Atlanta: A Conservative Analysis of Service and Spillover Costs* (Community Progress 2016) available at:

https://www.communityprogress.net/filebin/Cost_of_Vacant_and_Blighted_Immergluck_FINAL_02.17.16.pdf.

¹⁵ See, for example, *A Conservative Analysis of Costs Imposed by Vacant and Abandoned Property in Toledo* (Community Progress 2016) available at: https://www.communityprogress.net/filebin/160630_TASP_LCLRC_Toledo_Cost_of_Blight_Study_Final.pdf.

¹⁶ A third category of data that was also requested is vacant publicly owned properties, to better understand the nature and scale of County surplus property and whether there would be benefit in transferring some of this inventory to a potential land bank to more efficiently and effectively transfer to a new responsible owner to support local goals such as affordable housing.

¹⁷ The purchase of tax certificates is primarily used as an investment vehicle in Maryland. Prior research by Community Progress has revealed that less than 1% of investors who purchase tax certificates pursue a deed to the property.

¹⁸ For a deeper analysis of the delinquent property tax enforcement process in Maryland, see Community Progress' *Assessment of Baltimore City's Tax Sale System: Impacts on City Finances, Vacant Properties, and Vulnerable Owner Occupants* (October 2016), available at:

https://www.communityprogress.net/filebin/CCP_BaltimoreTASP_Final_Report_102616.pdf.

¹⁹ See MD Code, Tax-Property, § 14-824; § 14-825.

²⁰ See MD Code, Tax-Property, § 14-811(e); §§ 14-873 through 876.

²¹ See MD Code, Tax-Property, § 14-811(c).

²² See MD Code, Tax-Property, § 14-817(c); § 14-833(f).

²³ The importance of this particular designation will be discussed later in this report.

²⁴ Some data may or may not be regularly updated through these portals. For example, Community Progress noted that data related to Housing Inspection Violations indicated DPIE issued roughly 7-8,000 code violations a year from 2014-16, but that those numbers dropped to less than 2,000 per year from 2017-2020. Such a significant drop seems unlikely to be due entirely to process or staffing changes.

²⁵ The County provided a list of 1,199 vacant properties that were publicly owned, most owned by the County (983). Most of the more desirable properties that end up on this list are declared surplus properties by the County and may be offered for sale to the public by OCS. However, these properties could also likely be transferred to a new public entity, like a land bank, for little or no cost.

²⁶ The term "land" is used in the next few subsections, as opposed to "problem properties" because the County's ability to acquire property is quite broad and not limited solely to problem properties.

²⁷ See more about the County's programs to sell surplus lands on its website at:

<https://www.princegeorgescountymd.gov/927/Surplus-Real-Estate>.

²⁸ See the County's website at <https://www.princegeorgescountymd.gov/1300/About-Us>. The Redevelopment Authority's focus on mitigating problem properties in support of improving the quality of life for residents highlights a number of parallels between the Authority and a potential land bank, but the Redevelopment Authority's more narrow focus on specific, geographic areas and types of development projects as well as its use of certain tools to acquire land (e.g., eminent domain) distinguish it from the more flexible and community-driven focus of a land bank.

²⁹ See the OCS website at: <https://www.princegeorgescountymd.gov/923/Sale-of-Surplus-Property>.

³⁰ See Prince George's County Code of Ordinances, § 2-111.01(d).

³¹ See Prince George's County Code of Ordinances, § 2-111.01(e).

³² See OCS's presentation explaining the Grand Slam program (November 2019) on the County's website at: <https://www.princegeorgescountymd.gov/DocumentCenter/View/27886/Pre-EOI-Submission-Conference-PPT>.

³³ See the U.S. Housing and Urban Development website at: <https://www.huduser.gov/portal/usps/index.html>.

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- ³⁴ For additional ideas about the importance of neighborhood level data and how it can strengthen communities, see Mallach, Alan, *Neighborhood by Numbers: An Introduction to Finding and Using Small Area Data*, (Community Progress 2017), available at: <https://www.communityprogress.net/download-neighborhoods-by-numbers--2017--pages-552.php>.
- ³⁵ See, for example, Tolemi's Building Blocks Platform at: <https://www.tolemi.com/buildingblocks/>, Loveland Technologies' Landgrid at: <https://landgrid.com/>.
- ³⁶ See Rochester's Building Blocks platform by visiting [this hyperlink](#).
- ³⁷ See the Lucas County Land Bank website at: <https://lucascountylandbank.org/services/data-collection-and-access>.
- ³⁸ MD Code, Tax – Property, § 14-874(d).
- ³⁹ MD Code, Tax – Property, § 14-811(c).
- ⁴⁰ MD Code, Tax – Property, § 14-817(c).
- ⁴¹ Prince George's County Code of Ordinances, § 2-111.01(e).
- ⁴² There are a number of references to intergovernmental cooperation agreements or some form of interlocal cooperation in Maryland law, including in the Land Bank Law, but it does not appear the term is fully defined nor that there is prescribed form or format for an agreement of this nature. See, for example, MD Code, State Finance and Procurement § 13-110 (related to intergovernmental cooperation purchase agreements between a governmental entity and another person); MD Code, Land Use §§ 15-301 to 305 (related to the Maryland-National Capital Park and Planning Commission's authority to engage in intergovernmental cooperation with counties and other entities); and various others.
- ⁴³ While it doesn't appear this approach would limit a land bank established solely by the County from operating throughout the County, local legal counsel should be consulted to assess whether any municipality *not* interested in the County land bank working in that municipality could prevent it from doing so.
- ⁴⁴ See the city of San Antonio's website at: <https://www.sanantonio.gov/historic/VacantBuildings/Resources>.
- ⁴⁵ See County Code § 13-1130(c).
- ⁴⁶ County Code § 13-1130(b).
- ⁴⁷ County Code § 13-304. DPIE can also ask the court to appoint receiver for occupied property, but the power to do so (which includes the ability to collect rents from existing tenants) is not examined in this memorandum.

Appendix A

Summary of Data Referenced in Community Progress Report		
Properties with Outstanding Delinquent Property Taxes (as of Dec 2020)		Top 5 Locations 1) Capitol Heights (221) 2) Hyattsville (191) 3) Upper Marlboro (132) 4) Fort Washington (121) 5) Bowie (107)
<i>Certificates Held By County (2018-20)</i>	544	
<i>Certificates Held By Individual (2018-20)</i>	886	
<i>Others (misc. older certificates never redeemed)</i>	158	
Subtotal	1,588	
Properties identified by DPIE as Vacant and Abandoned (as of Nov 2020)		Top 5 Locations 1) Capitol Heights (248) 2) Temple Hills (109) 3) Hyattsville (105) 4) Fort Washington (103) 5) Upper Marlboro (102)
<i>Internal Vacant and Abandoned List</i>	1,024	
<i>DPIE order unfit for Human Habitation (2016-19)</i>	51	
Subtotal	1,075	
Publicly Owned "Vacant Sites" (as of Nov 2020)		Top 5 Locations 1) Capitol Heights (149) 2) Bowie (86) 3) Upper Marlboro (56) 4) Fort Washington (54) 5) Clinton (52)
<i>County-owned</i>	997	
<i>Municipality-owned</i>	136	
<i>Board of Education-, M-NCPPC-, or WSSC-owned</i>	38	
<i>State- or Federal-owned</i>	28	
Subtotal	1,199	

Outstanding Questions for Finance related to tax delinquent properties

1. How tax delinquent properties are vacant?
2. How many tax delinquent properties are vacant lots or have vacant structures and have been sent a notice from DPIE stating that is unfit for habitation (key for using judicial *in rem* tax foreclosure)?
3. How and at what point can we identify tax delinquent properties to be withheld from the Tax Sale?

Outstanding Questions for DPIE related to vacant and abandoned properties

1. What are the types of properties are those parcels identified as vacant and abandoned by DPIE (e.g., vacant lot, vacant single-family residential, vacant multi-family residential, vacant commercial)?
2. Who owns these vacant and abandoned properties (e.g., individual, deceased individual, corporation, financial institution)?
3. How many vacant and abandoned properties have multiple enforcement events (e.g., more than one notice of violation or nuisance abatement)?
4. Are these vacant and abandoned properties also tax delinquent?

Outstanding Questions for OCS and M-NCPPC related to publicly owned “vacant sites”

1. How many of the nearly 1,000 lots owned by the County are truly surplus?
2. How many of these lots are developable?
3. Could a land bank use its flexibility to dispose of undevelopable lots (e.g., are the lots located in residential areas, near another property, and could they be used for a side lot program)?

Prince George's County: Summary of Legal and Policy Research Documents Prepared by Community Progress

September 28, 2020

The Center for Community Progress (Community Progress) and Prince George's County (County) finalized an MOU in early August to work together to develop a comprehensive, systemic approach to vacant and abandoned properties that can be used to more equitably and efficiently unlock a pipeline of land for community good and to create lasting affordability. As part of its preparation for the engagement with the County, Community Progress prepared three documents to summarize its research of the legal authority and framework for the key public systems that impact vacant, abandoned, and tax delinquent properties: housing and building code enforcement, delinquent property tax enforcement, and public authority to acquire and dispose of problem properties.

These three documents include:

- 1) A memorandum titled, "*Prince George's County: State and Local Legal Levers to Address Vacant, Abandoned, and Tax Delinquent Property*," which summarizes key legal laws and policies related to housing and building code enforcement, delinquent property tax enforcement, and the County's powers and authority to acquire and dispose of vacant, abandoned, and tax delinquent properties; and
- 2) A chart titled, "*Coordinated Code and Tax Enforcement: Legal Tools to Address Vacant Properties*," which highlights how certain legal and policy tools available to the County and related to housing and building code enforcement and delinquent tax enforcement could be coordinated to better address vacant properties in Prince George's County; and
- 3) A chart titled, "*Summary of Maryland Land Bank Law*," which provides a high-level summary of key components of the Maryland Land Bank Law as they relate to the potential creation of a land bank by the County.

Any observations or conclusions contained in this research are subject to the advice and counsel of local legal counsel.

Prince George's County: State and Local Legal Levers to Address Vacant, Abandoned, and Tax Delinquent Property

August 25, 2020

This memorandum summarizes preliminary research related to the legal and policy tools available under the Annotated Code of Maryland (Maryland law) and the Prince George's County Code of Ordinances (County Code) to address vacant, abandoned, and tax delinquent properties. Local legal counsel should be consulted before relying on any information contained within this memorandum.

With Citi Community Investing and Development's generous financial support, the Center for Community Progress (Community Progress) and Prince George's County (County) finalized an MOU in early August to work together to develop a comprehensive, systemic approach to vacant and abandoned properties that can be used to more equitably and efficiently unlock a pipeline of land for community good and to create lasting affordability. An important first step of this work is to review the legal authority and framework for the key public systems that impact vacant, abandoned, and tax delinquent properties: housing and building code enforcement, delinquent property tax enforcement, and public authority to acquire and dispose of problem properties. When informed and directed by meaningful community engagement and robust data collection and analysis, these three systems can be coordinated to more efficiently and effectively mitigate the harms imposed by problem properties on existing residents, and to put these properties on a more equitable path to reuse that supports a variety of neighborhood and community needs and priorities for land throughout Prince George's County.

This memorandum focuses primarily on those laws and policies that impact *vacant, abandoned, and tax delinquent properties* (referred to herein as problem properties). Laws, policies, and programs that address occupied properties are critical and must be deployed in a way that supports the preservation and maintenance of existing housing stock, especially for those owners or tenants in need, while also putting mechanisms in place to diligently monitor whether and to what extent aggressive or other types of heavy-handed use could inadvertently lead to displacement. However, the legal levers used to address occupied properties are necessarily different and require a very different kind of analysis than those used to address problem properties; thus, they do not fall within the scope of the research conducted for this memorandum.

Each section below provides an overview of the legal framework and legal levers available to the County for each of the three key systems that impact problem properties in Prince George's County. The sections highlight generally which County department or agency has authority or control over the system; identifies available legal levers the County *can* use; and identifies legal levers the County *could* use to address problem properties but currently does not. Finally, each section contains brief and preliminary policy considerations for the County and its partners to consider at the outset of this engagement. These policy considerations will evolve as this engagement proceeds and as Community Progress gains a deeper understanding of the unique challenges facing the County and its partners as they seek to address problem properties and put them on a path to reuse in line with community goals and priorities for land.

I. HOUSING AND BUILDING CODE ENFORCEMENT

The legal levers or tools available to local governments in state and local law to enforce housing and building related codes can be an invaluable part of a more comprehensive approach to putting problem properties on a path to reuse—or they can pose a significant obstacle. Upon initial review of Maryland law and the County Code, the County has at its disposal several key legal levers that may enable housing and building code enforcement to play a meaningful role in a more comprehensive approach to property reuse. In particular, the County’s ability to enforce unpaid code enforcement fines and abatement costs as liens that can be enforced via the County’s delinquent property tax enforcement process may play a critical role in helping to identify and potentially compel the transfer of a universe of problem properties that could serve as inventory for a new Countywide land bank.

A. DPIE Responsible for Enforcing County Codes Against Problem Properties

The County, primarily through its Department of Permits, Enforcement, and Inspections (DPIE), has the authority to enforce its housing and building codes related to problem properties throughout Prince George’s County. The legal levers summarized in this section are those that can be enforced by DPIE.

Municipalities located in Prince George’s County can also elect to conduct their own housing and building code enforcement programs so long as the municipality has adopted housing or building codes used by the County or that are “not less stringent” than the County’s.¹ Some of the 27 municipalities located in Prince George’s County exercise more control over housing and building code enforcement than others; this [2017 chart](#) available on the County’s website suggests that DPIE is responsible for the majority of enforcement related to Building, Zoning, and Commercial and Industrial Property Maintenance codes while many of the municipalities retain control over enforcement of Housing codes.²

B. Existing Legal Levers to Address Problem Properties

The County has adopted a variety of codes related to housing and property maintenance, building construction, and exterior property conditions like weeds and litter. Violations of each of these codes may be enforced in several ways, though the most common enforcement tool appears to be the assessment of civil fines, either through an administrative hearings process (for Housing Code violations) or through a civil citation process which can be contested in District Court. The County also has broad authority to abate code violations and seek recovery of its costs by assessing the costs as a “tax lien” against the property.

1. *The Housing Code establishes minimum residential property standards and is primarily enforced via an administrative hearing process.*

The County’s Housing Code establishes minimum building and property standards for all residential buildings.³ The Housing Code address everything from exterior maintenance and conditions (e.g., provisions

¹ For example, see County Code § 110 (MuniCode 2020), related to a municipality’s ability to adopt the County Housing Code.

² This chart illustrates the need to conduct additional interviews and research related to the roles and responsibilities of DPIE and municipal code enforcement departments that operate in geographies where a potential County land bank might focus.

³ The County has also adopted a Property Standards and Maintenance Code that applies to properties zoned for commercial and industrial use, though no administrative hearings enforcement process is available. See County Code, Sub. 13, Div. 7.

related to basic sanitation, high weeds, grading and drainage to prevent accumulation of stagnant water, roof integrity) to interior maintenance and conditions (e.g., provisions related to interior ventilation, occupancy, heat, and basic habitability) to dangerous structures and other unsafe property conditions that put the health and safety of inhabitants or neighbors at risk. DPIE can enforce Housing Code violations in the following ways:

a. Civil fines via an administrative hearings process

Most violations of the Housing Code are enforced via an administrative hearings forum.⁴ DPIE mails a notice of violation and citation to property owners in violation of the Housing Code and instructs them to pay a fine of \$300 per violation or contest the matter before an administrative hearing officer, who is an independent attorney appointed by the County's Nuisance Abatement Board. Fines are civil in nature and can double if the violation is a repeat violation.

Unpaid administrative hearings fines are civil penalties and can be assessed as priority liens against the property, meaning they have priority over all other liens except for tax liens or liens reflecting "other government assessments."⁵ The County Code does not explicitly allow such liens to be assessed as a tax lien against the property (see subsection d), but the lien may be "collected and enforced in the same way that the County collects and enforces other debts due to it or liens in its favor."⁶ Additional interviews with County staff will shed light on whether the County interprets this authority to allow the enforcement of unpaid administrative fines through the delinquent property tax enforcement process.

b. Civil fines via civil citation and court process

DPIE can also send a property owner a notice of violation of the Housing Code and assess a civil citation if the owner fails to correct the violation in the time prescribed for compliance, usually around 30 days. The civil citation can assess a fine of \$100 for each violation, \$500 for a second violation, and \$1,000 for each subsequent violation during a 36-month timeframe. If the owner wishes to contest the citation, the owner can file with DPIE a notice of the owner's intent to stand trial and contest DPIE's notice in the County's District Court. Unpaid civil fines assessed through this process can be enforced and collected personally against the owner, though Maryland law and the County Code are unclear if this type of civil fine and process can result in a priority lien against the property or if the amount can be enforced as a tax lien.

c. Criminal penalties via court process

After issuing a notice of violation, DPIE can refer uncorrected violations of the Housing Code for criminal prosecution in District Court. Property owners can be served notice by mail. All violations of the Housing Code are classified as misdemeanors and may be punished by a fine of up to \$500 per violation or jail time of up to 90 days. Fines assessed as part of a criminal action can be enforced against the property owner personally and unpaid fines may result in a lien against the property, though it does not appear such a lien can be enforced as a priority or tax lien against the property.

⁴ Housing Code provisions that are not subject to administrative hearing enforcement include, for example, interior ventilation, lighting, plumbing, and mechanical and electrical requirements.

⁵ See County Code § 13-1130(c).

⁶ County Code § 13-1130(b).

d. Abatement of violations, including dangerous structures or unsafe conditions

The County can abate violations of the Housing Code, including violations related to dangerous structures or to unsafe conditions. DPIE sends notice of the violation to the owner and abates the condition if the owner fails to do so. Abatement may include vacating the building, securing a vacant structure by boarding it up, or demolishing a structure that poses an immediate and continuing hazard to the community. The costs related to abatement can be recovered either by a personal collection action against the owner or by recording a copy of the notice of violation with the County's Office of Finance to establish the costs of abatement as a tax lien against the property.

2. *The County Building Code establishes building and construction standards and can be enforced by imposing civil fines or criminal penalties.*

The County's Building Code is the only set of County housing and building codes that the County is explicitly required by Maryland law to adopt. The Building Code establishes a wide range of standards that apply to how buildings are constructed, details conditions under which building permits can be issued, and allows DPIE to abate unsafe structures in various stages of construction. DPIE can enforce Building Code violations in the following ways, each of which differ slightly from the way in which Housing Code violations can be enforced:

a. Assessment of a civil fine or civil citation

DPIE can issue a notice of violation of the Building Code and assess a civil fine of up to \$1,000 per violation. Owners can appeal DPIE's assessment to the County's Board of Administrative Appeals. Unpaid fines are recorded with the County's Office of Finance, which constitutes a lien against the property and which can be collected "in the same manner as other County real estate taxes."⁷

DPIE can also enforce violations using a civil citation, which differs from the assessment of a civil fine in that DPIE can issue the citation, give the owner time to comply, and if the owner fails to comply, DPIE issues the civil citation. Upon receiving a civil citation, the owner can either pay a \$250 civil fine for each violation (\$500 if the violation has been issued a second time or \$1,000 if the violation has been issued more than twice in a 36-month period) or request a trial to contest the violation in District Court. Maryland law and the County Code are unclear if this type of civil fine and process can result in a priority lien against the property or if the amount can be enforced as a tax lien against the property.

b. Criminal sanctions or penalties

After issuing a notice of violation, DPIE can refer Building Code violations to be prosecuted criminally in District Court. Property owners can be served notice by mail. All violations of the Building Code are classified as misdemeanors and may be punished by a fine of up to \$1,000 per violation or jail time of up to 6 months. Fines assessed as part of a criminal action can be enforced against the property owner personally and unpaid fines may result in a lien against the property, though it does not appear such liens can be enforced as a priority lien (e.g., tax lien) against the property.

⁷ See County Code § 4-116.

c. Abatement of uncompleted structures or unsafe conditions, issue stop work order, or deny certificate of occupancy

After issuing a notice of violation and giving the owner a reasonable time to comply, DPIE can secure or demolish uncompleted structures or otherwise abate unsafe conditions at vacant building sites throughout the County, and it can recover its costs in the same way it recovers its costs in actions to abate similar violations of the Housing Code. DPIE can also issue a stop work order to incentivize owners or developers to comply with the Building Code or deny a certificate of occupancy to compel compliance.

3. *The County can ask the court to appoint a receiver for problem properties, abate high weeds and litter, and track foreclosed properties in the state registry.*

There are a variety of other housing and building related codes adopted by the County that can be used to address problem properties. Some key provisions include:

a. DPIE may apply to District Court to appoint a receiver to repair or manage problem properties in violation of codes enforced by DPIE

DPIE can ask the Circuit Court to appoint a receiver to take control of problem properties where there is (a) a violation of any provision of the County Code that threatens the public health, safety, or welfare; (b) where the owner has not corrected the violation(s) in a timely manner; and (c) where abatement would “further the County’s housing priorities and policies.”⁸ At least 30 days before filing an application to appoint a receiver, DPIE must send notice to all parties interested in the property, including lien holders and mortgage holders.

If the owner or an interested party fails to respond or take steps to address the violations, DPIE can nominate a qualified receiver. A qualified receiver could include the County’s Redevelopment Authority, the County’s Housing Authority, DPIE’s Community Standards Division, “an urban renewal agency, or a private not-for-profit corporation, the primary purpose of which is the improvement of housing conditions within the County.”⁹ A receiver could also be a land bank formed under Maryland law.

Among other responsibilities and powers, the receiver is granted the authority to take possession of the property, abate violations, pay property taxes or other government charges or liens, and charge an administrative fee approved by the court. If the owner or another interested party does not reimburse the receiver for any unpaid costs or expenses approved by the court, the court can order a lien in the receiver’s favor against the property. The receiver has the ability to foreclose on its lien in the same way that a mortgage holder might foreclose its interest under Maryland law, but neither Maryland law nor the County Code appear to grant a receiver’s lien priority over other liens.

b. The County’s Antilitter and Weed Ordinance allows the County to abate high weeds and remove litter, including garbage and rubbish from problem properties

⁸ County Code § 13-304. DPIE can also ask the court to appoint receiver for occupied property, but the power to do so (which includes the ability to collect rents from existing tenants) is not examined in this memorandum.

⁹ County Code § 13-306.

DPIE can issue the property owner or other responsible party, like a tenant, a notice of violation for weeds or grass that exceed 12 inches and for failure to dispose of litter, which includes accumulated garbage and rubbish. If the responsible party fails to address the violation, DPIE can either abate the violation and place a tax lien against the property for the cost of abatement through the County's Office of Finance, or assess a civil citation against the owner or person responsible which carries a fine of up to \$1,000 per violation. Civil citations are enforced in the same ways as a civil citation is enforced for a violation of the Housing Code (see subsection 1.b. above).

c. Parties who purchase mortgage-foreclosed properties are required to register

DPIE can assess a \$1,000 civil fine against a party identified as the purchaser of property sold at a foreclosure sale conducted pursuant to Maryland law who fails to register with the Maryland Foreclosed Property Registry. Registrants are also required to manage and maintain the property in accordance with the County's Housing Code. It isn't clear if these properties are typically problem properties, but the registry does establish a record of many properties that may be vacant.

C. Legal Levers Available in Maryland Law but Not Adopted by the County

A review of Maryland Law did not reveal any notable legal levers available to Maryland counties or local governments to enforce housing and building codes that the County has not already enacted or taken advantage of in some way. Of note, the Maryland Constitution and Maryland law provide most Maryland counties and municipalities fairly broad authority to enact and enforce housing and building related codes,¹⁰ and Prince George's County appears to enjoy even more expansive 'home rule' authority than most other municipalities and counties in the state. This is important for several reasons, a key one of which is that the County does not always need to find explicit authority in Maryland law to adopt new legal levers or tools to address problem properties.

D. Preliminary Policy Changes to Consider

At this preliminary stage of the engagement, the primary policy changes to consider related to housing and building code enforcement are changes to ensure that unpaid housing and building code violation abatement costs and fines are systematically recorded and assessed against problem properties as tax liens, which provides leverage to compel the owner to pay the public costs of addressing the harm imposed by the property or to compel the transfer of the property through delinquent property tax enforcement. Of course, this systematic practice must also include circuit breakers to identify vulnerable property owners (e.g., low-income households or elderly households) who want to comply but have simply fallen on hard times and need some additional support, such as repair or maintenance grants or the waiver of certain County liens, to prevent a potential loss of family wealth.

Policy considerations include:

1. As a matter of course, ensure all unpaid abatement costs expended addressing problem properties are assessed against the property as tax liens and enforced accordingly.

¹⁰ See, for example, Article 23A of the Annotated Code of Maryland.

2. Confirm whether civil fines assessed for violations of the County’s Housing Code, Building Code, and other related codes can be assessed against problem property as tax liens. If so, create a process by which, as a matter of course, civil fines are assessed against problem properties as tax liens but only if those properties and their owners meet certain criteria (e.g., owner is not low-income and/or has not demonstrated the willingness to comply but simply lacks resources to do so).
3. Consider establishing a vacant property registry and requiring the owners of vacant buildings/structures to pay an annual, graduated registration fee or, in return for a fee reduction, submit a plan to renovate or reuse the property in line with community goals.
4. Consider whether the County has the authority to clarify in the County Code or whether a change to Maryland law is required to pass an ordinance that allows a receiver’s lien to take priority over all other liens except liens for taxes or other government assessments in those receivership cases where a County land bank is appointed as the receiver.
5. Consider exploring whether the County has the authority to establish a separate foreclosure process for liens reflecting the costs of the County’s actions to abate housing and building code violations and whether such a process could result in the County or a County land bank acquiring title to the property. Such an action may require satisfaction of outstanding tax liens or certificates sold to private investors or other unpaid tax debts due and associated with the property, and would likely also require consideration of a number of other legal hurdles, but may result in another option to more quickly foreclose on properties where the County has invested a great deal of resources in addressing problem properties.

II. DELINQUENT PROPERTY TAX ENFORCEMENT

Tax delinquency is one of the most common indicators that a property is vacant and that the owner has abandoned the property. The delinquent tax enforcement system is also one of the most powerful tools available to local governments to compel the transfer of problem properties to a new and, hopefully, more responsible owner. The primary source of inventory for most land banks across the country, in fact, is land acquired by the land bank through the delinquent tax enforcement process.

This pipeline of potential inventory is often limited in jurisdictions that enforce delinquent property taxes by selling tax liens, or tax certificates, to private investors, as is the case throughout Maryland and in Prince George’s County. Once the tax certificate is sold, the local government cedes much of its leverage to control the outcome of that particular property to the private purchaser who is likely solely focused on making a return on their investment. Fortunately, there are several recently enacted Maryland laws that could allow the County to exercise more control over the transfer of certain vacant, tax delinquent properties. In addition, the County’s potential ability to strategically connect code lien enforcement with the use of new delinquent tax enforcement tools to withhold certain vacant, tax delinquent properties from the annual tax certificate sale may increase the potential inventory of land that could be acquired by a County land bank and reused in line with community goals and priorities for land.

A. Office of Finance enforces delinquent property taxes

The County's Office of Finance is responsible for the collection of property taxes and for enforcing unpaid property taxes in Prince George's County. The Office of Finance collects property taxes on behalf of the County and the various municipalities located within Prince George's County. Property tax bills are sent in July and are due by September 30th or, if the property is the owner's principal residence, the bill may be paid in two installments due no later than September 30th and December 31st. The tax bill includes the property tax, any special assessments for water or sewer charges, as well as tax liens reflecting unpaid municipal charges like housing and building code enforcement liens.¹¹

If payment is late, the taxes are considered delinquent and interest and penalties apply to the unpaid amount. In March of the year following the year in which the taxes were due, the Office of Finance mails the final delinquent tax bill to the property owner. A list of the delinquent tax certificates to be offered at the annual tax sale is advertised in local papers and online in April. If the tax bill is not paid in full by the second Monday of May, the Office of Finance is required by Maryland law to offer the tax certificate at the tax sale, which is a public auction of tax certificates where the certificate is sold to the highest bidder.¹²

Tax certificates can be purchased by payment of the minimum bid, an amount that includes the taxes due, interest, penalties, and costs of the sale. The purchaser, or holder, of a tax certificate is entitled to collect the tax debt from the property owner and earn interest and fees upon redemption by the owner. The property may be redeemed by the owner up until the Circuit Court enters a judgement foreclosing the owner's right to redeem the property. To redeem property on which a tax certificate has been sold in Prince George's County, the owner must pay the Office of Finance the taxes, interest, penalties, costs of the sale (including attorney's fees if the property is not redeemed within 4 months of the sale), any subsequent taxes that have become due, and interest at the rate of 20% per year. If the tax certificate holder does not file a complaint to foreclose within 2 years of the tax sale, the tax certificate expires and the holder loses their right to foreclose and forfeits any amounts paid to the Office of Finance, with some limited exceptions.

B. Existing Legal Levers to Compel the Transfer of Problem Properties

Most properties with delinquent taxes in Maryland cannot be transferred to a new owner until two separate enforcement events have taken place: the tax debt on the property has been offered at the annual tax sale and the tax certificate holder, subsequently files an action to foreclose the owner's right of redemption. While this process is relatively inefficient, there are still some existing legal levers to compel the transfer of problem properties to a new owner. These include, for example:

¹¹ See County Code § 10-122.01 for authority to add tax liens, which can include certain housing and building code liens, against the property to the annual property tax bill.

¹² Note that in Prince George's County only, Maryland law allows the County to conduct a "sale by limited auction" in advance of the public auction. At the limited auction, qualified bidders may bid on the tax lien in the same way they would at the public sale. Qualified bidders include residents of Prince George's County and certain employees of Prince George's County, local municipalities, local school districts, and the federal government. It is not clear the extent to which this sale actually takes place in Prince George's County, and it does not appear to grant the County or bidders any special or accelerated ability to foreclose or otherwise compel the transfer of tax delinquent property.

1. Tax certificate holder can foreclose the property owner's right of redemption

The tax certificate holder can foreclose the owner's right of redemption by filing the appropriate complaint to foreclose in circuit court. A complaint to foreclose can be filed as soon as 6 months after the tax sale if the owner has not redeemed, though the complaint must be filed within 2 years of the tax sale. The tax certificate holder, or the plaintiff, must send at least two forms of notice to the owner and to any current mortgagee or beneficiary of a deed in trust against the property before even filing the complaint (60 days before filing for the first notice and 30 days before filing for the second notice). Notice of the complaint is then required to be sent to all interested parties, including the owner(s), lien holders, and any other parties with a recorded interest in the property.

A judgment by the court in favor of the plaintiff transfers title to the property to the plaintiff. Once the judgment of foreclosure is entered, the plaintiff is responsible for payment of any subsequent taxes due. The Office of Finance is instructed to issue a deed to the plaintiff once the plaintiff pays any difference in the amount paid for the certificate and the purchase price determined in the foreclosure proceeding, plus any taxes, interest, and penalties that accrued on the property after the date of the tax sale. Additional action may be required by the purchaser to ensure title is clear and insurable.

If the tax certificate holder elects not to foreclose the owner's right of redemption (which occurs frequently in Maryland), the certificate is void after 2 years. In that case, the property will likely be offered again at the next annual tax sale and the cycle could begin all over again.

2. County acquires the tax certificate and either sells the tax certificate, forecloses on the right to redeem, or assigns the tax certificate to a trusted third party.

The County acquires the tax certificate for the property if no one offers at least the minimum bid on property offered at the annual tax sale. These properties are referred to in the County Code as "forfeited properties." The County may resell the tax certificate for the same minimum bid in a subsequent sale, or, if no offers the minimum bid, the County Council may authorize the sale of the tax certificate at a lower amount.

Though it is not required to do so, the County may also hold onto the tax certificate and foreclose the owner's right to redeem the property in the same way that a private tax certificate holder may foreclose. Additional action may be required by the County to ensure title is clear and insurable.

If the property on which the County holds the tax certificate is a vacant lot or is an "improved property cited as vacant and unfit for habitation on a housing and building code violation notice,"¹³ then the County may file a complaint to foreclose the right of redemption at any time after it acquires the tax certificate.

3. County may set a lower minimum bid on property offered at the tax sale that is considered abandoned; the tax certificate holder may foreclose on the right to redeem at any time.

¹³ MD Code, Tax – Property, § 14-833 (Westlaw 2020).

At the tax sale, the Office of Finance can set a bid that is lower than the amount of taxes due, interest, and penalties if the property is abandoned. Abandoned property is defined as a vacant lot or an “improved property cited as vacant and unfit for habitation on a housing and building code violation notice.”¹⁴ If the tax certificate for abandoned property is purchased at the tax sale, the tax certificate holder may foreclose on the tax certificate at any time. If the County acquires the tax certificate, it may also foreclose on the tax certificate at any time. The County can also transfer its interest in a tax certificate for abandoned property, including its power to foreclose at any time, to a land bank established under Maryland law.

C. Legal Levers Available in Maryland Law to Compel the Transfer of Problem Properties but Not Adopted by the County

Maryland law does grant counties or municipalities the explicit authority to withhold certain vacant or abandoned properties from the annual tax sale and allow the County to foreclose the owner’s right to redeem. This process is far more efficient than the process of pursuing two separate enforcement events—the sale of the tax certificate *and* the foreclosure of the owner’s right to redeem. A review of the County’s website and the County Code failed to clarify whether the County has implemented or adopted any of the Maryland law provisions that would allow the County to withhold certain vacant or abandoned properties from the tax sale. These legal levers include:

1. *County can withhold certain vacant lots or buildings from the tax sale that are designated for redevelopment purposes.*

The County can withhold vacant lots and properties that have a building or structure that is vacant and unsafe or unfit for habitation from the annual tax sale if the County has designated the property for redevelopment. The County must also find that withholding the property from the tax sale will “eliminate a blighting influence” or “prevent the tax abandonment of the property.”¹⁵ The County may establish additional criteria for property to be withheld for the purposes of redevelopment.

The County does not need to adopt an ordinance to exercise this authority, but the County would presumably have to make some kind of official determination that the property meets the criteria established by Maryland law. It is unclear if such a determination would require County Council approval or could be approved by the County Executive or the Director of the Office of Finance.

2. *County can withhold vacant properties from the tax sale that are designated for judicial in rem tax foreclosure*

The County can adopt an ordinance establishing a judicial *in rem* tax foreclosure process. Judicial *in rem* tax foreclosure is a tool that allows the County to withhold certain vacant properties from the tax sale and file a special *in rem* complaint to foreclose the owner’s right of redemption as early as 6 months from the date the property was first considered delinquent—this could occur as early as May of the year following the year the taxes were due. Judicial *in rem* foreclosure is intended to accelerate the County’s ability to file an action to foreclose and to acquire clear and insurable title to the property.

¹⁴ MD Code, Tax – Property, § 14-817(c).

¹⁵ MD Code, Tax – Property, § 14-811(c).

Only property that is a vacant lot or an “improved property cited as vacant and unsafe or unfit for habitation or other authorized use on a housing or building violation notice” may be designated for foreclosure under the judicial *in rem* statute.¹⁶ In addition, the total amount of unpaid tax liens on the property must exceed the value of the property as last determined by the County Assessor or by an appraisal conducted in the previous 6 months.

At the conclusion of a judicial *in rem* tax foreclosure, the court may extinguish all existing claims against the property, enter a judgement of foreclosure in favor of the County, and order that upon recording of the judgment the County acquires “absolute or fee simple title” to the property. The County may also establish by ordinance a process to offer property acquired through judicial *in rem* tax foreclosure for sale after the County has acquired title to the property, though Maryland law does not prescribe any additional rules or limitations as to how such a sale may be conducted.

Given the ability to bypass the annual sale of tax certificates, accelerated foreclosure time frame, quality of title acquired, and the overall control over the process accorded to the County by judicial *in rem* tax foreclosure process, it is likely that this legal lever will be one of the more effective tools for the County or a potential County land bank to acquire problem properties.

D. Preliminary Policy Changes to Consider

The primary policy changes to consider related to delinquent property tax enforcement at this stage of the engagement are to ensure that the County implements or adopts the legal levers allowed under Maryland law to withhold certain vacant properties from the tax sale. At a later stage of this engagement, it may be worth considering whether changes to Maryland law may be worth exploring to ensure the more effective, efficient, and equitable transfer of problem properties subject to delinquent property tax enforcement.

Policy considerations include:

1. Clarify whether the County has a procedure in place to designate certain vacant properties for redevelopment and to withhold such properties from the annual tax sale. If this procedure does not exist, consider outlining a process where qualified problem properties are designated for redevelopment and withheld from the tax sale. Limit the universe of properties eligible for this process to those properties where the value may exceed the total amount of taxes, penalties, and interest due, or other types of problem properties that may qualify for withholding for purposes of redevelopment but would not qualify for withholding for use of the judicial *in rem* foreclosure tool.
2. Consider analyzing countywide data related to delinquent property tax enforcement data and housing and building code enforcement data to determine the universe of properties that are (a) tax delinquent; and either (b) vacant lots or (c) improved cited by DPIE or a municipal code

¹⁶ MD Code, Tax – Property, § 14-874(d).

enforcement department as vacant and unsafe or unfit for habitation or other authorized use on a code enforcement violation notice. Understanding this potential universe of properties will shed light on the need to establish a system of judicial *in rem* tax foreclosure.

3. Consider drafting and enacting an ordinance and supporting policies and procedures establishing a system of judicial *in rem* tax foreclosure. Maryland law prescribes what is needed in the ordinance establishing such a system, and Baltimore City’s recently passed judicial *in rem* tax foreclosure legislation provides a sample framework on which the County may wish to draw from in the development of its own ordinance.

III. AUTHORITY TO ACQUIRE AND DISPOSE OF PROBLEM PROPERTIES

Ultimately, the authority to enforce housing and building code liens against problem properties and the ability to exercise increased control over the transfer of problem properties through the delinquent property tax enforcement process—and the way in which these two systems are coordinated—will play a significant role in helping the County establish a more comprehensive, equitable approach to addressing problem properties in Prince George’s County. The next step is to assess and establish the County’s general authority to acquire, manage, and dispose of problem properties—or former problem properties—in a way that supports community goals and priorities for land throughout Prince George’s County.

The County has a variety of tools, as well as specific agencies or entities that can be used to acquire problem properties and other types of land for public purposes, including for purposes related to economic development and the development of affordable housing. However, most of the County’s existing legal levers and entities that can be used to acquire and dispose of land for these purposes are focused on doing so for specific or targeted development reasons or to acquire land for use as County facilities, public parks, or other public uses.¹⁷

Those tools are useful and important, but there is also a need for an entity like a land bank with a dedicated focus on (a) mitigating the harms imposed by problem properties, many of which are likely single parcels scattered across Prince George’s County; (b) using its special powers to acquire problem properties through tax foreclosure and other means, and (c) using its authority to flexibly and nimbly work with the County’s various departments and agencies, municipalities, nonprofit partners, residents, and other partners to support the ways in which problem properties can be reused in line with a wide variety of needs for land, which may include single family or multifamily affordable housing, the development of workforce housing, open spaces or parks, and stormwater management, among other needs.

A. The County’s Office of Central Services, Redevelopment Authority, Revenue Authority, and Housing Authority, among others, play a key role in acquiring and developing land to support a variety of community needs through Prince George’s County

¹⁷ The term “land” is used in the next few subsections, as opposed to “problem properties” because the County’s ability to acquire property is quite broad and not limited solely to problem properties.

The County's Office of Central Services, Land Acquisition and Real Property Division, is generally in charge of acquiring land on behalf of the County and for declaring lands owned by the County as surplus lands that may be offered for sale to the public or transferred to another public entity. The Redevelopment Authority is primarily focused on acquiring land with the intent to "decrease the number of blighted commercial and residential structures within a 1/2 mile radius of existing transit centers and improve the quality of life for the residents of Prince George's County."¹⁸ The Revenue Authority is a self-described "quasi-governmental" agency that acquires land in support of its and the County's real estate development goals and also serves as a development finance agency. The Housing Authority has the authority to acquire land for the purpose of supporting its mission of developing and providing affordable and supportive housing to qualified residents. These entities are not the only County departments or agencies that have the authority to acquire, develop, or dispose of land, but the collective authority held by each of these departments or agencies to acquire and dispose of land in support of public use and community needs for land is a good representative sample of the County's existing authority to acquire and dispose of land

B. Existing Legal Levers for the County to Acquire and Dispose of Land

The legal levers available to each of the various County departments and agencies described in the previous subsection to acquire or dispose of land are, for the most part, somewhat similar and shared by the other departments or agencies. For that reason, in this subsection only, the word "County" refers to and includes each of the above referenced departments or agencies unless otherwise indicated. The intent of this subsection is to identify at a very high level some of the legal levers or powers that are unique to a governmental entity, as opposed to spending a great deal of print examining the County's more general powers to, for example, purchase property on the open market.

1. *Legal levers available to the County to acquire land include purchase, gift, foreclosure, or eminent domain/condemnation.*

The County can acquire property through purchase, negotiated transfer, gift, by foreclosing on its interest in the property (e.g., if the County has a secured interest in the property or is the mortgagor), and through the foreclosure of tax certificates acquired and held by the County. The County and most of its agencies, including the Redevelopment Authority, can also acquire property for a public purpose via condemnation or eminent domain, which require the County to pay the owner full market value for the property, plus any damages or relocation costs, if applicable.¹⁹

The County and its agencies, including the Revenue Authority and the Redevelopment Authority, also have the power to finance property acquisitions by, for example, issuing special obligation bonds. In fact, the Revenue Authority issued bonds in 2016 for the purpose of supporting its "Suitland-Naylor Road Project,"

¹⁸ See the County's website at <https://www.princegeorgescountymd.gov/1300/About-Us>. The Redevelopment Authority's focus on mitigating problem properties in support of improving the quality of life for residents highlights a number of parallels between the Authority and a potential land bank, but the Redevelopment Authority's more narrow focus on specific, geographic areas and types of development projects as well as its use of certain tools to acquire land (e.g., eminent domain) distinguish it from the more flexible and community-driven focus of a land bank.

¹⁹ See MD Code, Real Property, Title 12.

where some funds were used to acquire land, and the County pledged a share of tax increment revenues to satisfy the principal and interest on the bond.²⁰

2. *The County's ability to dispose of land is less about legal levers, and more about identifying key limitations on its ability to flexibly dispose of land*

The County's ability to dispose of property generally, such as the Office of Central Service's sale of property declared a surplus, is limited because it requires approval of the County Council and because the purchase price must be for fair market value and the property must be sold to the highest bidder. This is not universally true of all County agencies, and there are some exceptions for property sold for a specific purpose or public good, but generally most County departments and agencies are subject to rules that require burdensome oversight of the disposition process and restrict the department or agency from selling the property for less than market value in exchange for non-monetary consideration, which may include consideration in the form of a benefit the new owner will provide to the community (e.g., affordable housing or new grocery store). Notably, these are powers many land banks across the country have.

The County's various legal levers that guide the disposition of County property are not all overly burdensome or restrictive. Some of the more interesting legal levers that promote community participation in the disposition or management of County land include, for example:

- a. Community Benefits Ordinance. Where the County assists in a development project that is awarded a public benefit with a value of more than \$3 million (which could include County land transfers), the County Code allows the County Executive to establish a community coalition to develop and recommend to the County Council a community benefits agreement between the County and the Developer, though the aggregate value of the community benefit agreement cannot be greater than 10% of the total value of the public benefit offered to the developer by the County.
- b. The County's "Cultivate-A-Lot Program." The County Code requires the County to maintain a catalog of all vacant lots owned by the County. From this catalog, County residents can apply to the County to use the land for gardening, horticulture, or other similar uses so long as the resident is 18 years old and agrees to a few other stipulations.

C. Legal Levers Available to the County to Acquire and Dispose of Land that Have Not Been Adopted

The County has not yet exercised its authority under Maryland law to create a land bank. Maryland land bank enabling legislation allows the County to create a new, governmental entity for the sole purpose of acquiring vacant, abandoned, and tax delinquent properties, or problem properties, and stewarding them towards equitable opportunities for reuse aligned with community priorities and needs for land.

²⁰ See the 2017 Financial Statements and Independent Auditor's Report for the Revenue Authority at: <https://princegeorgescountymd.gov/DocumentCenter/View/28560/FY-2017-Audit-Report>.

To establish a land bank, the County must pass an ordinance. Before the County can draft an ordinance that will best serve the County's goals for the creation of a land bank, the County needs to work closely with its public, private, and community partners across Prince George's County to assess the initial needs and priorities for a County land bank. Some of the details the County will need to reach consensus on before drafting the ordinance include: an understanding of the corporate structure that will best serve the County's goals; the potential geographic focus of the land bank; the powers, size, and composition of the initial board; whether full-time staff will be employed; an understanding of the powers available to the land and how those powers might best serve the needs and priorities for land throughout the geographic areas the land bank will serve, as well as how such powers may complement existing County or municipal entities or programs that are aligned with the land bank's purpose; and how the land bank will be funded.

Below is a brief summary of key provisions of the Maryland land bank enabling legislation:

1. *Creating a Land Bank*

The County Council must pass an ordinance establishing a Maryland Land bank Authority ("land bank") and the ordinance must be approved by the County Executive. The land bank may be formed as either a nonprofit or a "quasi-governmental" entity. Proposed articles of incorporation must be included with the ordinance adopting the land bank for review and approval by the County Council; the final articles of incorporation must be filed with the Maryland Department of Assessments and Taxation and signed by the County Executive.

One or more local governments may enter an intergovernmental cooperation agreement to create a land bank. In Prince George's County, the County likely has the authority to establish a land bank that can operate throughout the county without the need to enter into such an agreement with each municipality. However, it may be worth exploring whether entering into some other kind of agreement or MOU with interested municipalities or other taxing districts (e.g., water and sewer authorities) makes sense for the purposes of memorializing partnerships or teeing up future conversations about joint funding efforts.

2. *Land bank Governance*

The ordinance establishing a land bank also must create a board to govern the land bank and must include provisions establishing board appointment procedures, powers of the board, board member removal procedures, term lengths, and the election of a board chair. The number of board members required to be appointed is not specified in Maryland law and appears up to the discretion of the County. The land bank must also report annually on its activities to the County.

3. *Land bank Powers*

Unless otherwise limited by the articles of incorporation, Maryland land bank enabling legislation provides land banks a broad list of general powers they may exercise, including the ability to acquire and hold property in its own name, to sue and be sued, to borrow money, to invest money, to enter into contracts, to provide acquisition, management, and sale services to a local government for property owned by the local government, to enter into agreements with local governments for in-kind services, and other key powers.

4. *Acquisition Authority and Connection to Delinquent Tax Enforcement Process*

Land banks can acquire real property, or an interest in real property, by “gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper.”²¹ A land bank may also be appointed by the County or a municipality in a receivership action filed by the local government. As mentioned earlier in this memorandum, additional research is needed to assess whether a receiver’s lien is an effective acquisition tool.

Land banks can only acquire an interest in tax delinquent property if the County has first attempted to sell the tax certificate at the tax sale and was unsuccessful. This is significant, however, because it means the land bank can accept a transfer from the County of tax certificates forfeited to the County, presumably at no cost, and foreclose on the property owner’s right of redemption. With the permission of the County, the land bank can also collect and retain any payment of taxes, liens, penalties, or interest paid by the owner or interested party on the tax certificate.

Outside of these powers, a land bank itself has no authority to directly intervene in the tax foreclosure process, to withhold property from the tax certificate sale, or to participate in a judicial *in rem* foreclosure process. A land bank can only acquire whatever interest the County has in tax delinquent property. A land bank can accept a transfer of interest in tax delinquent property from an individual, like from the owner of tax delinquent property or from a tax certificate buyer, though it is unclear whether the land bank can acquire such an interest for a reduced cost. Finally, the County can release or abate tax or water liens on properties that the land bank acquires, but the land bank does not have the explicit ability to extinguish liens on its own.

If the County were to have at its disposal the full range of tools available to it under Maryland law to acquire problem properties through delinquent property tax enforcement, as discussed in the previous section, a land bank could likely serve a meaningful role in helping to support that process and accept transfers of problem properties acquired by the County.

5. *Authority to Manage, Maintain, and Quiet Title to Property*

A land bank may “hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, or demolish the property and take all other actions necessary to preserve the value of” the property in its inventory.²² A land bank must comply with local land use controls, permitting requirements, and zoning laws, but is not explicitly required to keep properties up to local housing and building code standards—something the County may want to consider requiring to ensure to hold the land bank accountable and ensure it builds trust as a good neighbor. Land banks can hold all property tax exempt and may hold title to tax foreclosed property and property without clear title. Land banks can quiet title to any property in which it holds an interest, including by filing a bulk quiet title action.

6. *Disposition Authority*

A land bank can sell, lease, transfer or dispose of its interest in property. Maryland law is silent as to whether a land bank has discretion to determine the amount or type of consideration the land bank may accept

²¹ MD Code, Real Property, § 1-1406.

²² MD Code, Real Property, § 1-1411.

for property it transfers, though the law does not specifically prohibit it. Maryland law is also silent as to whether the board of the land bank or the County Council must approve some of or all land bank dispositions—presumably these are questions that could be resolved in the drafting of the land bank ordinance.

7. *Funding Opportunities*

Land banks can retain income earned from the sale of properties in the land bank’s inventory, as well as income earned from providing services like quieting title or managing and maintain County land. As discussed previously, and with the County’s permission, a land bank may also retain payments from certain owners who redeem tax certificates transferred to the land bank by the County. The only other land bank funding provisions explicitly authorized in Maryland law is the ability for the land bank to issue bonds to pay for the cost of acquiring or improving property. Unless a land bank expects to recover a significant sum from property owners who choose to redeem tax certificates transferred to the land bank by the County after the tax certificate has failed to sell the certificate at the tax sale, or unless the land bank will issue bonds and the County will agree to pledge certain tax revenues to satisfy the principal and interest on the bonds, then it is unclear if existing revenue provisions will be enough to fund land bank operations at the scale of need in Prince George’s County given the nature and low financial value of most properties acquired by the land bank.

D. Preliminary Policy Changes to Consider

Policy changes to consider at this stage are entirely related to the creation of a County land bank. At a later stage of this engagement, it may be worth considering whether potential changes to Maryland land bank enabling legislation could avail a County land bank of needed additional powers and authority to acquire, manage, and dispose of problem properties.

1. Consider working with County, municipal, nonprofit, and community partners across Prince George’s County to assess the need and opportunity for a County land bank.
2. Using the analysis of the Maryland land bank enabling legislation provided in this section as a guide, and based on the assessment recommended in the previous policy sentence, consider drafting an ordinance to create a County land bank to serve those areas of Prince George’s County where problem properties impose harm on residents and communities, and where a land bank could play a role in acquiring, mitigating the harm imposed, and disposing of problem properties to support a wide variety of needs and priorities for land.
3. Should the County choose to draft an ordinance creating a County land bank, the ordinance should clearly include references to existing or new authority for the County to direct the transfer of tax delinquent property. These references should include:
 - i. A reference to the land bank’s role in accepting the transfer of tax certificates from the County that do not receive a bid at the tax sale and are considered abandoned;
 - ii. A reference to the land bank’s role in whatever process is established by the County to withhold certain vacant properties from the tax sale for redevelopment purposes; and
 - iii. A reference to the land bank’s role in supporting or serving as a transferee of properties acquired by the County acquires through judicial *in rem* tax foreclosure.

Coordinated Code and Tax Enforcement: Legal Tools to Address Vacant Properties

September 1, 2020

A Community Progress chart to highlight the need to better coordinate housing and building code enforcement and delinquent tax enforcement to address vacant properties in Prince George's County

Property Type (Property = Structure or Unimproved Lot)		Tools to Monitor & Prevent Decline and/or to Compel Compliance		Tools to Abate Harmful Conditions and/or Seek Payment		Tools to Compel <i>and Control</i> Transfer if No Compliance or Payment	
		Currently Used	Available but Not Used (or unclear)	Currently Used	Available but Not Used (or unclear)	Currently Used	Available but Not Used (or unclear)
TAXES PAID	Vacant Property, No Outstanding Code Issues	<ul style="list-style-type: none"> Maryland Foreclosed Property Registry (limited) 	N/A	N/A	N/A	N/A	N/A
	Vacant Property, Outstanding Code Issues	<ul style="list-style-type: none"> MFPR (limited) Administrative Hearing Civil fine or citation Criminal action 	N/A	<ul style="list-style-type: none"> Abate nuisance (e.g., weeds, trash, board up, demo) Unpaid abatement costs added to taxes 	<ul style="list-style-type: none"> Unpaid code fines added to tax bill Receivership 	N/A	<ul style="list-style-type: none"> Receivership
TAXES UNPAID	Vacant Property, No Outstanding Code Issues	<ul style="list-style-type: none"> MFPR (limited) Notice of tax delinquency 	N/A	<ul style="list-style-type: none"> Sell tax certificate 	N/A	<ul style="list-style-type: none"> County tax foreclosure (if tax certificate not sold) 	<ul style="list-style-type: none"> Receivership
	Vacant Property, No Outstanding Code Issues AND Unimproved Lot	<ul style="list-style-type: none"> Notice of tax delinquency 	N/A	<ul style="list-style-type: none"> Sell tax certificate 	N/A	<ul style="list-style-type: none"> County tax foreclosure (if tax certificate not sold) 	<ul style="list-style-type: none"> Withhold from tax sale / Judicial <i>in rem</i> tax foreclosure Withhold from tax sale for redevelopment / County tax foreclosure Tax foreclosure of abandoned property (if tax certificate not sold)
	Vacant Property, Outstanding Code Issues	<ul style="list-style-type: none"> MFPR (limited) Administrative Hearing Civil fine or citation Criminal action Notice of tax delinquency 	N/A	<ul style="list-style-type: none"> Abate nuisance (e.g., weeds, trash, board up, demo) Unpaid abatement costs added to taxes Sell tax certificate 	<ul style="list-style-type: none"> Unpaid code fines added to tax bill Receivership 	<ul style="list-style-type: none"> County tax foreclosure (if tax certificate not sold) 	<ul style="list-style-type: none"> Withhold from tax sale for Judicial <i>in rem</i> tax foreclosure Withhold from tax sale for redevelopment & tax foreclosure (County) Tax foreclosure of abandoned property (if tax certificate not sold) Receivership

Summary of Maryland Land Bank Law

September 2, 2020

The following chart provides a high-level summary of key components of the Maryland Land Bank Law (“Land Bank Law”) as they relate to the potential creation of a land bank by Prince George’s County (“County”). The final column contains Community Progress’ preliminary observations for the County to consider as it evaluates opportunities to create a land bank. All observations are subject to guidance of local legal counsel.

	Brief Overview	Preliminary Observations
Creation	<ul style="list-style-type: none"> County Council passes ordinance establishing land bank name, board members, purpose of land bank, and land bank powers Ordinance approved by County Executive Formed as nonprofit or “quasi-governmental” entity Proposed articles of incorporation included with ordinance; final articles filed with state One or more local governments can form a land bank through intergovernmental cooperation agreement 	<ul style="list-style-type: none"> County likely doesn’t need to enter into agreement with municipalities to operate within municipalities located in County, though may be worth exploring agreements to tee up conversations about memorializing partnerships, coordinating services (e.g. code enforcement), or future funding
Governance	<ul style="list-style-type: none"> Ordinance must establish board, board powers, duties, removal procedures, term length, and other board details Board can hire employees, consultants Must provide annual report on land bank activities to County 	<ul style="list-style-type: none"> Land Bank Law silent on number of board members and other details on board powers and duties, which appears to leave County a great deal of discretion in governance Unclear if a land bank is subject to state open meetings or open records laws
General Powers	<ul style="list-style-type: none"> Broad powers include ability to acquire/ hold property in land bank’s name, sue and be sued, borrow and invest money, enter contracts, provide acquisition/management/ sale services to local government for property owned by local government, enter into agreements for in-kind services with local government, etc. Powers can be limited by articles of incorporation 	<ul style="list-style-type: none"> Enumerated powers in Land Bank Law are broad, and include the power to “do all things necessary or convenient to carry out the powers expressly granted by [the Land Bank Law] or by an ordinance adopted under [the Land Bank Law]”
Acquisition and Connection to Tax Enforcement	<ul style="list-style-type: none"> Broad authority to acquire by “gift, devise, transfer, exchange, foreclosure, purchase, or otherwise” Can be appointed as receiver Can acquire County’s interest in tax certificates forfeited to County Can acquire County’s interest in land foreclosed by County, but no other special powers to intervene in tax enforcement 	<ul style="list-style-type: none"> Limited special powers to intervene in tax enforcement If County adopted full range of available tax enforcement tools under state law, land bank could serve meaningful role helping to support process and accept transfers of vacant and abandoned properties acquired by County

<p>Manage, Maintain, & Quiet Title</p>	<ul style="list-style-type: none"> ▪ Holds property tax exempt ▪ May “hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, or demolish...and take all other actions necessary to preserve the value of” property in its inventory ▪ Must comply with land use controls, permitting requirements, zoning laws ▪ Can quiet title and conduct bulk quiet title actions 	<ul style="list-style-type: none"> ▪ Land Bank Law doesn’t explicitly require County maintain inventory up to local codes, though requiring this in ordinance (and actually maintain inventory to code) would help build trust as a good neighbor ▪ Bulk quiet title may be helpful to address other inventories of vacant, publicly owned land with title defects
<p>Disposition</p>	<ul style="list-style-type: none"> ▪ Can sell, lease, transfer or dispose of its interest in property ▪ No other specific limitations on authority to dispose 	<ul style="list-style-type: none"> ▪ Land Bank Law is not clear if land bank has ability to transfer property for any amount or type of consideration, including nonmonetary consideration such as the new owner developing the property for community good (e.g., affordable housing) ▪ Unclear if land bank would need board or County Council approval to move forward with any types of dispositions
<p>Funding</p>	<ul style="list-style-type: none"> ▪ Retain income for sale of inventory ▪ Earn income from services like quieting title or managing and maintaining County land ▪ Can retain redemption payments on tax certificates transferred from County ▪ Can issue bonds 	<ul style="list-style-type: none"> ▪ Unlikely that existing tools to raise revenue will fully fund land bank operations given likely majority inventory of land bank is vacant, abandoned, formerly tax delinquent ▪ May require dedicated annual funding for land bank operations from County or County partner ▪ May be worth exploring authority under state law for County to establish separate fee or dedicate percentage of interest/penalties collected in delinquent tax enforcement to fund land bank in connection with passage of land bank ordinance

Appendix C

List of Advisory Team, Land Bank Task Force, and Interviewees

Local Advisory Team
Aspasia Xypolia, Acting Director, Department of Housing and Community Development, Prince George's County
Adam Kulikowski, Senior Underwriter, Department of Housing and Community Development, Prince George's County
Ray Skinner, Senior Advisor, Department of Housing and Community Development, Prince George's County
Land Bank Task Force
Angie Rodgers, Deputy Chief Administrative Officer, Economic Development, Prince George's County
Melinda Bolling, Director, Department of Permitting, Inspections, and Enforcement, Prince George's County
Linda Allen, Deputy Director, Office of Finance, Prince George's County
Michael Brown, Deputy Director, Office of Central Services, Prince George's County
Greg Bedward, Associate County Attorney, Law Department, Prince George's County
Jim Cannistra, Division Chief, Maryland - National Capital Park and Planning Commission
Interviewees
Angie Rodgers, Deputy Chief Administrative Officer, Economic Development, Prince George's County
Calvin Hawkins, Chair, County Council, Prince George's County
Dannielle Glaros, Member, County Council and Co-Chair, Housing Opportunities for All Work Group, Prince George's County
Todd Turner, Member, County Council, Prince George's County
Marvin Holmes, Delegate, Maryland General Assembly
Melinda Bolling, Director, Department of Permitting, Inspections, and Enforcement, Prince George's County
Gary Cunningham, Deputy Director, Department of Permitting, Inspections, and Enforcement, Prince George's County
Donald Green, Code Enforcement Officer, Department of Permitting, Inspections, and Enforcement, Prince George's County
Jim Cannistra, Division Chief, Information Management Division, Maryland - National Capital Park and Planning Commission
Michelle Dallas, Technology Program Coordinator, Information Management Division, Maryland - National Capital Park and Planning Commission
Tera Williams, Tax Sale Coordinator, Office of Finance, Prince George's County
Peter Shapiro, Director, Revenue Authority, Prince George's County
Donny James, Chief Real Estate Officer, Revenue Authority, Prince George's County
Michael Brown, Deputy Director, Office of Central Services, Prince George's County
Ikenna Udejiofor, Division Manager, Office of Central Services, Prince George's County
Thomas Jones, Deputy Director, Office of Information Technology, Prince George's County
Lynette Nick, Business Analyst, Office of Information Technology, Prince George's County
Greg Bedward, Associate County Attorney, Law Department, Prince George's County
Laura Searfoss, Senior Program Director, Enterprise Community Partners

Chris Kizzie, Vice President, Enterprise Community Partners
John Paukstis, President and CEO, Habitat for Humanity Metro Maryland
Sarah Reddinger, Vice President for Community Development, Habitat for Humanity Metro Maryland
Jim Griffin, Chief Operating Officer, Home-Free USA
Maryann Dillon, Executive Director, Housing Initiative Partnership
Stephanie Proestel, Deputy Director, Housing Initiative Partnership
Rasheeda Jamison, President and CEO, United Communities Against Poverty
Tisa Clark, President, J.D. Clark Professional Services, LLC

Informational Webinar on Land Banks

Prince George's County
Stakeholders

February 10, 2021



Kim Graziani, *Senior Advisor, National Technical Assistance*
Matt Kreis, *General Counsel*

About Us



Center for Community Progress

- **Mission:** To foster strong, **equitable** communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods.
- **Services:** Technical assistance, education and training, policy, and research. Focus on systems-level change.
- **Outreach:** Since 2010, Community Progress has provided technical assistance to more than 300 communities in 35 states and reached tens of thousands through national conferences and other education and training events.
- **Follow Us!**
 - On Twitter: [@CProgressNews](https://twitter.com/CProgressNews)
 - On Facebook: [@CenterForCommunityProgress](https://www.facebook.com/CenterForCommunityProgress)
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Agenda

- I.** Introduction to our work in Prince George's County
- II.** Overview of Land Banking
- III.** Examples from the Field
- IV.** Q+A
- V.** Next Steps

Section I



Is a Land Bank a Valuable Tool for
Prince George's County?

What is the Problem?



What problems do you see? What worries you?

What is the Problem?

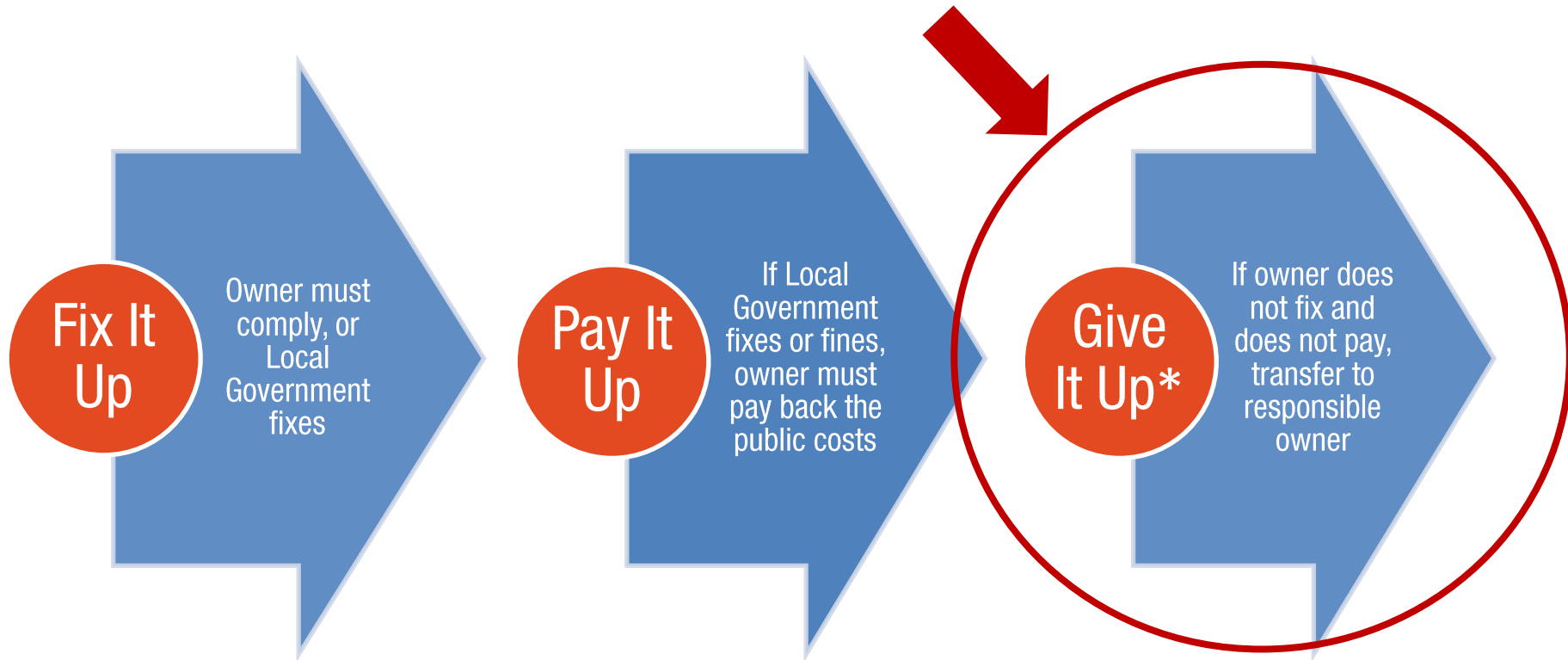


What you
see....

- ✓ Ownership?
- ✓ Market demand?
- ✓ Inefficient, ineffective laws (e.g., tax lien sales, code lien priority)?
- ✓ Property taxes paid?
- ✓ Status/cost of code enforcement activities?
- ✓ Public safety risks and costs for police and fire?

...and what
you don't

What is the right tool?



Tools to Compel Compliance

- Education & Equitable Repair and Support Programs
- Code Enforcement/Abatement

Tools to Compel Payment

- Code/Abatement Lien Enforcement
- Delinquent Tax Enforcement

Tools to Facilitate Transfer

- Tax/Lien Foreclosure
- Land Banking

Primary Questions: Land Bank Assessment



- 1. What is the problem/potential inventory of a land bank?**
- 2. Are there existing tools that can address the current problem property inventory without a land bank?**
- 3. Are there other barriers with the current public property acquisition and disposition processes?**
- 4. What partners need to be engaged?**

Scope of Work: Land Bank Assessment



When: August 2020 – March 2021, Ongoing Support throughout 2021

What: Land Bank Assessment Report

How: Data Collection, Legal and Policy Review, Interviews, Previous Land Bank Expertise

Who: DHCD, Land Bank Task Force, HOFA Workgroup, you!

This work is funded through the generous support of Citi

Section II

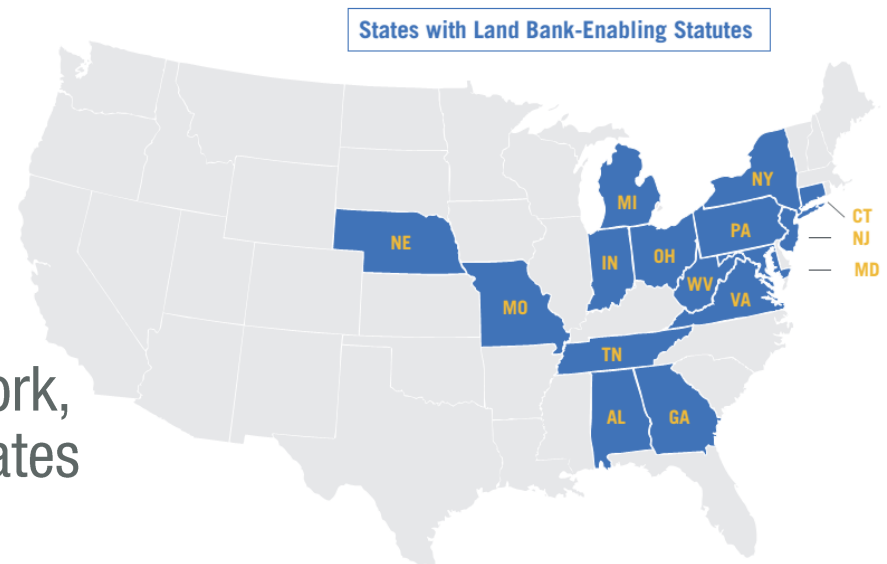


Overview of Land Banking

What is a Land Bank?

A land bank is a public entity (nonprofit or public authority) that acquires, holds, and stewards vacant, abandoned, and/or tax delinquent properties to support *equitable community development outcomes*.

- Over 200 land banks nationwide
- Over 90% established since 2008
- Michigan, Ohio, Pennsylvania, New York, and Georgia are largest land bank states



Maryland law allows local governments to create land banks, but to date **no land banks have been established!**

When is a Land Bank the right tool?



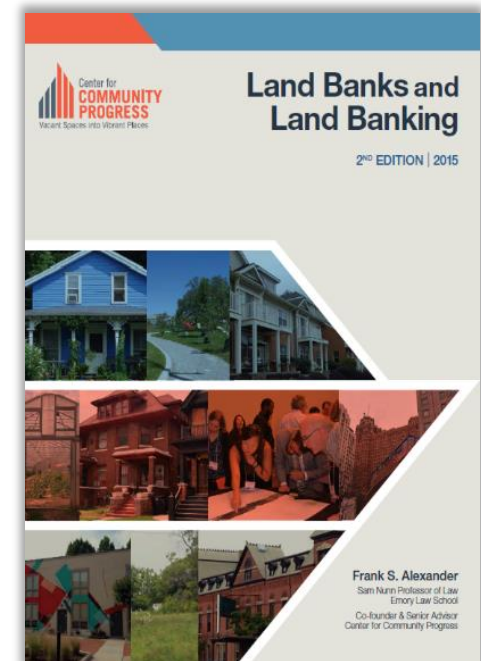
Define the problem and identify available solutions.

- Inventory of properties that are vacant, abandoned, and tax delinquent (VAT)
- Inventory of properties that are underwater in value and stuck in some type of legal limbo (clouded title, heir properties)
- Inequitable/inefficient tax foreclosure, or code lien enforcement systems
- Restrictive public property disposition requirements
- Sudden “shocks” (COVID-19)
- ❖ **Desire for more predictable, community-based outcomes that advance equity and resiliency: “public land for public good”**

What are the Key Powers of Land Banks?

Land Banks authorized through state-enabling (or local) legislation are only as powerful and flexible as the statute that created them.

- Acquire tax foreclosed property cost-effectively
- Ability to extinguish liens and clear title
- Hold property tax exempt
- Generate and collect revenue from delinquent tax fees, tax recapture, or other funding mechanisms
- Disposition decisions are flexible: driven not by highest price but by best outcome
- Accountable to the public given status as public entities



Different Yet Complimentary...



	Land Banks	Redevelopment Authorities
Legal Structure	Public Entity (nonprofit or public authority)	Public Authority
Governance	Board defined by statute or IGA (public/private)	Board defined by statute (public/private)
Mission	Stabilization and revitalization of VAT properties guided by community goals	Stabilization and revitalization guided by statute
Acquisition	Special acquisition powers (e.g., tax/lien foreclosure), no eminent domain	Special acquisition powers, including eminent domain, in defined redevelopment areas
Tenure of Ownership	Temporary, but ability to hold/maintain long term	Temporary
Disposition	Can flexibly dispose of land in line with community goals	Narrow disposition restrictions

How can Land Banks be flexible and nimble?

Goal

Eliminate blight

Maximize short term revenue

Maximize long term revenue

Affordable housing/commercial

Neighborhood stabilization

Strategy

Demolitions, rehabilitation

Sale to highest bidder

Convey for sustainable development

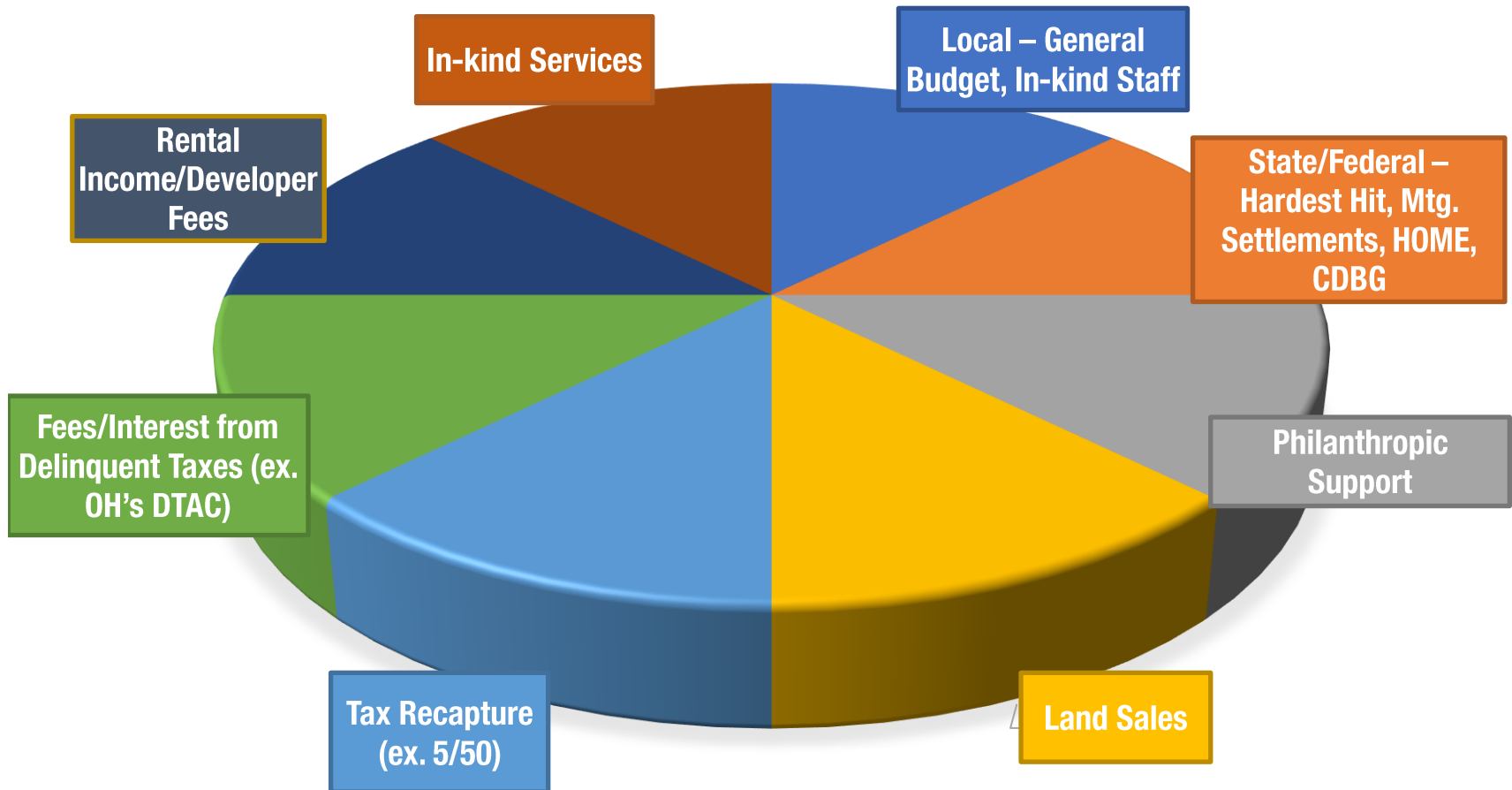
Convey at lowest price

Demolition, rehabilitation,
side lot transfers



How are Land Banks Funded?

FUNDING MECHANISMS



Key Elements of Effective Land Banks

Targeted on vacant, abandoned, and tax-delinquent property causing the most harm

Aligned with other strategies and systems impacting vacant, abandoned, and tax-delinquent properties

Authentically engaged with communities most impacted by vacancy and abandonment

Scaled in response to local community goals by being flexible and nimble

Driven by policy, transparency, and accountability

Section III



Examples from the Field

A map of the United States with numerous location pins placed across various states, indicating project locations. The pins are concentrated in the Northeast, Midwest, and South. The text 'Examples from the Field' is overlaid in large orange font.

Tri-COG Land Bank, PA

Serving 23 municipalities, 6 school districts, Allegheny County

- Cost of Blight Study and Engagement with Municipalities, advisory committees
- Funding through member contributions, grants, and earned revenue
- Partnerships with local CLT, vacant land and greening organizations



Source and Credit: Pittsburgh Tribune

Metro Atlanta Land Bank, GA



Serving Fulton County and City of Atlanta

- \$50 million bond for affordable housing, land bank will be key partner
- Depository Program for Nonprofits
- Permanent Affordability Pilot and partnership with local community land trust



Source and Credit: Atlanta Neighborhood Development Partnership, Inc.

Lucas County Land Bank, OH



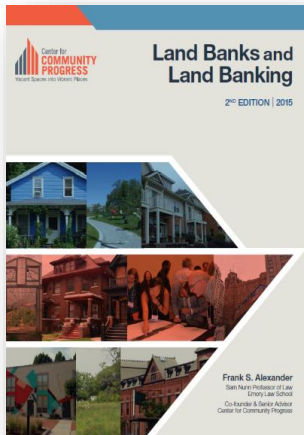
Serving Lucas County and City of Toledo

- Cost of Blight Study and Parcel Inventory for Toledo
- Funded by legislated dedicated funding from delinquent tax collections - DTAC
- Full-time position dedicated to community engagement
- New strategic plan announcement: Neighborhood Justice Fund

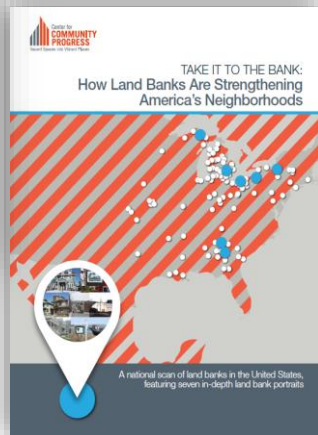


Source and credit: Toledo Blade

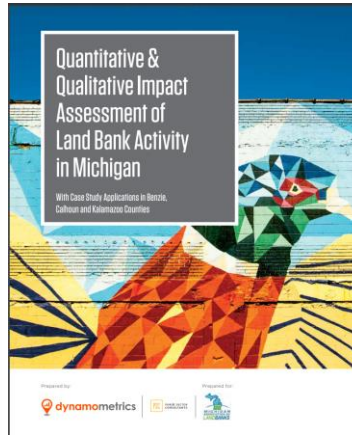
Additional Resources



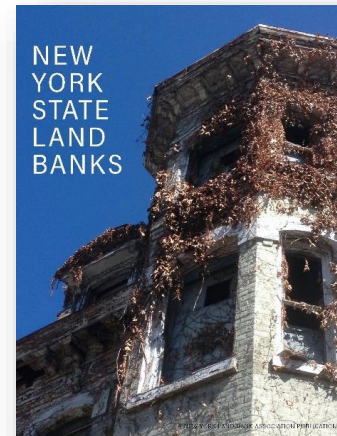
*Land Banks and
Land Banking* by
Frank Alexander, 2nd
Ed (2015)



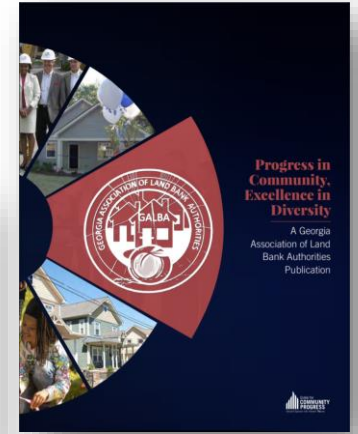
Take It to the Bank
(2014)



*Quantitative and
Qualitative Impact
Assessment of
Land Bank Activity
in Michigan* (2019)



*Progress in Community,
Excellence in Diversity:
A Georgia Association of
Land Banks Publication*
(2019)



*New York State Land
Bank Report* (2017)

And much more, including the Land Bank Information Headquarters, located on our website:
www.communityprogress.net

Section IV



Q+A: Please use Chat Box

Questions?

Comments?

Thoughts?

Section V



Next Steps...

A map of the United States with numerous location pins placed across various states, indicating project locations. The pins are concentrated in the Northeast, Midwest, and South. The text 'Next Steps...' is overlaid in large, bold, orange font.



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Appendix E

Land Bank Budget Framework

Revenue	Year 1	Year 2	Year 3
Board Contributions			
Foundation Grants			
City/County Appropriated Funds			
State and Federal Contract Funds			
Property Sales			
Rent/Lease Income			
Application and Processing Fees			
Revenue Share (5/50, DTAC or similar)			
Total Revenue			
Administrative Expenses			
Salaries and Wages			
Benefits			
Professional Fees			
Consultants			
Accounting			
Audit			
Legal			
Insurance			
D&O			
Liability			
Rent and Utilities			
Office Supplies and Printing			
Hardware, Software, Information Services			
Advertising and Publications			
Postage and Delivery			
Charges, Dues, Subscriptions			
Training and Education			
Conferences and Travel			
Vehicles and Equipment			
Misc.			
Total Administrative Expenses			
Property and Program Expenses			
Acquisition Costs			
Cost of Property			
Appraisals			
Court Costs			

Recording Fees			
Legal/Title Insurance Charges			
Quiet Title Filings			
Operating Expenses			
Taxes and Assessments			
Utilities			
Repairs and Maintenance			
Security and Board-up			
Mowing and Cleanup			
Snow Removal			
Demolition			
Professional Fees			
Legal			
Consultants			
Cost of Sales			
Marketing			
Fees and Commissions			
Recording Fees			
Total Property and Program Expenses			

Appendix F

Sample Land Bank Policies

The following set of sample administrative policies for a land bank can be found in “Appendix E” of *LAND BANKS AND LAND BANKING* (2nd ed. 2015), by Frank S. Alexander, and are included in this report with the permission of the author. A copy of *LAND BANKS AND LAND BANKING* (2nd ed. 2015) can be downloaded on the Community Progress website at: http://action.communityprogress.net/p/salsa/web/common/public/signup?signup_page_KEY=8679.

As with any generic set of legal documents, it is not advisable simply to copy them, or to cut and paste portions of them, for adoption in any given jurisdiction. Designing the appropriate policies and procedures for a particular jurisdiction must be done in light of the precise language of the state enabling statute, the provisions in the local government ordinance or agreement creating the land bank, and the strategic and tactical priorities as established by the local land bank’s board of directors. These sample policies and procedures should be viewed only as a “checklist” of topics to be considered.

_____ Land Bank Authority
Administrative Policies and Procedures
As approved and adopted by the Board of Directors on _____, 20__

These policies and procedures are a consolidation of and codification of all prior policies and procedures of the Land Bank Authority and supersede all such prior policies and procedures.

Section 1. Role as a Public Authority.

- 1.1 Public Authority. The LBA is a public entity authorized by state law and created pursuant to an agreement between _____ and the _____. It is governed by a Board of Directors appointed by _____ and by _____. Advisory Board members are appointed by _____ and by _____.
- 1.2 Governing Authority. The core governing documents of the LBA are the applicable state law, the _____, the Articles of Incorporation, and the Bylaws.
- 1.3 Purposes. The LBA is established to acquire the tax-delinquent properties, surplus properties of the local governments, and other properties in order to foster the public purpose of returning land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide housing, new industry, and jobs for the citizens of the county.

Section 2. Priorities for Property Use.

- 2.1 Governmental Use. As a governmental entity created by _____ and _____, the first priority use of real property of the LBA is to make available its properties to the local governments for public use and ownership as determined by the local governments.

- 2.2 Affordable Housing. The first use of real property of the LBA for nongovernmental purposes is the production or rehabilitation of housing for persons with low or moderate incomes. On an annual basis the Board of Directors establishes the applicable definitions of “low income” and “moderate income”.
- 2.3 Other Purposes. When there is no governmental purpose or use for a property, and there is no feasible use of the property for affordable housing, the LBA may consider permitting the property to be used for other community improvement purposes. These uses should be consistent with the following priorities: neighborhood revitalization; return of the property to productive tax-paying status; land assemblage for economic development; long-term “banking” of properties for future strategic uses; and provision of financial resources for operating functions of the LBA.
- 2.4 Neighborhood Consultation. The LBA expects every applicant seeking to acquire property from the LBA to demonstrate prior consultation with neighborhood associations and nonprofit entities in the geographical location of the property.

Section 3. Priorities for Identity of Transferees.

- 3.1 Priority Transferees. Except where limited by the terms of its acquisition, the first priority for use of real property held by the LBA shall be for conveyance to local government entities for public use. The second priority shall be neighborhood nonprofit entities seeking to obtain the land for low-income housing. The third priority shall be other individuals and entities intending to produce low-income or moderate-income housing. The LBA may also, at its discretion, give priority to: nonprofit institutions such as academic institutions and religious institutions; entities that are a partnership, limited liability corporation or joint venture comprised of a private nonprofit corporation and a private for-profit entity; and individuals who own and occupy residential property for purposes of the Side Lot Disposition Program.
- 3.2 Transferee Qualifications. All applicants seeking to acquire property from the LBA, or to enter into transaction agreements with the LBA, will be required to provide as part of the application such information as may be requested by the LBA, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, and (b) its prior experience in developing and managing affordable housing.
- 3.3 Reserved Discretion. The LBA reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities that meet any of the following criteria:
- (a) Failure to perform in prior transactions with the LBA,
 - (b) Ownership of properties that became delinquent in ad valorem tax payments and remain delinquent in ad valorem tax payments during their ownership,
 - (c) Parties that are barred from transactions with local government entities,
 - (d) Parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the LBA,
 - (e) Ownership of properties that have any unremediated citation for violation of the state and local codes and ordinances,

- (f) Properties that have been used by the transferee or a family member of the transferee as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).

Section 4. Priorities Concerning Neighborhood and Community Development.

The LBA reserves the right to consider the impact of a property transfer on short- and long-term neighborhood and community development plans. In doing so, the LBA may prioritize the following in any order in which it deems appropriate: the preservation of existing stable and viable neighborhoods; neighborhoods in which a proposed disposition will assist in halting a slowly occurring decline or deterioration; neighborhoods that have recently experienced or are continuing to experience a rapid decline or deterioration; geographic areas that are predominantly non-viable for purposes of residential or commercial development.

Section 5. Pricing Policies and Factors in Determining Consideration Due Upon Transfers

- 5.1 Relevant Factors. The following factors shall constitute general guidelines for determination of the consideration to be received by the LBA for the transfer of properties. In each and every transfer of real property the LBA shall require good and valuable consideration in an amount not less than the lower of the fair market value of the property or the Property Costs. "Property Costs" shall mean the aggregate costs and expenses of the LRC attributable to the specific property in question, including costs of acquisition, maintenance, repair, demolition, marketing of the property and indirect costs of the operations of the LRC allocable to the property.
- 5.2 Retained Discretion. The amount of consideration shall be determined by the LBA in its sole discretion. The consideration to be provided by the transferee to the LBA may take the form of cash, deferred financing, performance of contractual obligations, imposition of restrictive covenants, or other obligations and responsibilities of the transferee, or any combination thereof.
- 5.3. Transfers to Nonprofit entities for affordable housing.
 - (a) Transfers of property to nonprofit entities for the development, operation or maintenance of affordable housing shall require consideration not less than the Project Costs.
 - (b) Consideration shall be established at a level between the Property Costs and fair market value of the property. To the extent that the consideration exceeds the Property Costs, such amount shall be reflected by a combination of contractual obligations to develop, maintain, or preserve the property for specified affordable housing purposes. Such amount may be secured by subordinate financing in which amortization of the obligation occurs by virtue of annual performance of the required conditions.
 - (c) The dominant priority in determining the amount of and method of payment of the consideration shall be to facilitate the development of affordable housing and simultaneously to ensure that the property is dedicated over an appropriate period of time for affordable housing.
- 5.4. Transfers to Governmental Entities
 - (a) To the extent that transfers of property to governmental entities are designed to be held by such governmental entities in perpetuity for governmental purposes, the aggregate consideration for the transfer shall be based upon deed restrictions upon the use of the property.

- (b) To the extent that transfers of property to governmental entities are anticipated as conduit transfers by such governmental entities to third parties, the consideration shall consist of not less than then Property Costs, to be paid in cash, The difference between the Property Costs and the fair market value may be included in consideration depending upon the relationship between the anticipated uses and the governing priorities of the LRC.

5.5. Side Lot Disposition Program. The pricing policies applicable to the Side Lot Disposition Program shall be as set for in the policies and procedures applicable to the Side Lot Disposition Program.

5.6. Transfers of Property at Open Market Conditions.

- (a) Property that is transferred on the open real estate market, whether through auction or negotiated transfers, without restrictions as to future use shall be based upon consideration equal to the fair market value of the property. Such consideration shall be paid in full at the time of the transfer.

Section 6. Conveyances to the LBA.

6.1 Sources of Property Inventory. Sources of real property inventory of the LBA include but are not limited to the following: (a) transfers from local governments, (b) acquisitions by the LBA at tax foreclosures, (c) donations from private entities, (d) market purchases, (e) conduit transfers contemplating the simultaneous acquisition and disposition of property, and (f) other transactions such as land banking agreements.

6.2 Policies Governing the Acquisition of Properties. In determining which, if any, properties shall be acquired by the LBA, the LBA shall give consideration to the following factors:

- (a) Proposals and requests by nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment.
- (b) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.
- (c) Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.
- (d) Improved properties that are the subject of an existing order for demolition of the improvements and properties that meet the criteria for demolition of improvements.
- (e) Vacant properties that could be placed into the Side Lot Disposition Program.
- (f) Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
- (g) Properties that would form a part of a land assemblage development plan.
- (h) Properties that will generate operating resources for the functions of the LBA.

6.3 Acquisitions through Delinquent Tax Enforcement Proceedings. The Tax Commissioner may combine properties from one or more of the foregoing categories in structuring the terms and conditions of the tax foreclosure procedures, and the LBA may acquire any such properties prior to sales, at such sales, or subsequent to sales as authorized by law. In determining the nature and extent of the properties to be acquired, the Tax Commissioner shall also give consideration to underlying values of the subject properties, the financial resources available for acquisitions, the

operational capacity of the LBA, and the projected length of time for transfer of such properties to the ultimate transferees.

6.4 Transaction Agreements. In all cases involving conduit transfers and land banking agreements, a transaction agreement must be approved in advance and executed by the LBA and the grantor of the property. In the case of conduit transfers, such a transaction agreement will generally be in the form of an Acquisition and Disposition Agreement prepared in accordance with these Policies. In the case of a land banking relationship, such a transaction agreement will generally be in the form of a land banking agreement prepared in accordance with these Policies. These transaction agreements shall be in form and content as deemed by the LBA to be in the best interest of the LBA, and shall include to the extent feasible specification of all documents and instruments contemplated by the transaction as well as the rights, duties and obligations of the parties.

6.5 Title Assurance. In all acquisitions of property by the LBA through transaction agreements, the LBA generally requires a certificate of title based upon a full title examination and, in the case of Land Banking Agreements, a policy of title insurance insuring the LBA subject to such outstanding title exceptions as are acceptable to the LBA in its sole discretion.

6.6 Environmental Concerns. The LBA reserves full and complete discretion to require in all transaction agreements that satisfactory evidence be provided to the LBA that the property is not subject to environmental contamination as defined by federal or state law.

Section 7. Conveyances from the LBA.

7.1 Covenants, Conditions and Restrictions. All conveyances by the LBA to third parties shall include such covenants, conditions and restrictions as the LBA deems necessary and appropriate in its sole discretion to ensure the use, rehabilitation and redevelopment of the property in a manner consistent with the public purposes of the LBA. Such requirements may take the form of a deed creating a defeasible fee, recorded restrictive covenants, subordinate financing being held by the LBA, contractual development agreements, or any combination thereof.

7.2 Options. Options are available for 10% of the parcel price for up to a twelve (12)-month period. This fee will be credited to the parcel price at closing. If closing does not occur, the fee is forfeited. All option agreements are subject to all policies and procedures of the LBA pertaining to property transfers.

7.3 Deed Without Warranty. All conveyances from the LBA to third parties shall be by Quitclaim Deed.

Section 8. Collaboration with Not-for-Profit Entities.

8.1 Transactions with Not-for-Profit Entities. The LBA is willing to enter into conduit transfers with not-for-profit corporate entities as outlined in this section. These not-for-profit corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the LBA for waiver of taxes, and “buy back” these properties for use in affordable housing development.

8.2 Documentation of Lot Purchase. The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:

- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
- (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs);

- (c) The development costs impacting the final sale price; and
- (d) The total amount of delinquent ad valorem taxes (County, City, School District), special assessments, and other liens and encumbrances against the property and the length of delinquency for each.

8.3 Maximum Costs. The total of these costs should exceed the maximum allowable lot cost (i.e., the cost that will permit the production of low- to moderate-income housing) before the LBA may consider the waiver of back taxes in total or in part.

8.4 LBA Discretion. Some properties may present unusual or extenuating circumstances to the developer due to lack of funding for housing production or related costs. The LBA reserves the right to evaluate and consider these properties case-by-case.

Section 9. Collaboration with For-Profit Entities.

9.1 Transactions with For-Profit Entities. The LBA is willing to enter into conduit transfers with for-profit corporate entities as outlined in this section. The corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the LBA for waiver of taxes, and “buy back” these properties for use in affordable housing development.

9.2 Eligibility. Eligibility for this option will be based on certain criteria. These shall include the geographical location of the property. The corporate entity must first identify and consult with any active nonprofit entities that may have an interest in developing the property. If an interest exists, the nonprofit and for-profit must forge an agreement for joint development.

9.3 Documentation of Lot Purchase. The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:

- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
- (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs, etc.);
- (c) The development costs impacting the final sale price; and
- (d) The total amount of delinquent ad valorem taxes (County, City, School District), special assessments, and other liens and encumbrances against the property and the length of delinquency for each.

9.4 Maximum Costs. The total of these costs should exceed the maximum allowable lot cost (i.e., the cost that will permit the production of low- to moderate-income housing) before the LBA may consider the waiver of back taxes in total or in part.

9.5 LBA Discretion. Some properties may present unusual or extenuating circumstances to the developer due to lack of funding for housing production or related costs. The LBA reserves the right to evaluate and consider these properties case-by-case.

Section 10. Property for Community Improvements.

10.1 Community Improvement Property. The LBA is willing to accept donations of property to be transferred into a non revenue-generating, non tax-producing use that is for community improvement or other public purposes. Under the provisions of the governing documents of the

LBA, the LBA is permitted to assemble tracts or parcels of property for community improvement or other public purposes.

10.2 Eligibility. Properties can be conveyed to the LBA for waiver of delinquent taxes and then reconveyed by the LBA to be utilized for community improvement purposes including but not limited to community gardens, parking for nonprofit functions such as a school or cultural center, or playground for after-school or day care. The application must demonstrate that no alternative tax-generating use is available for the property, and that the proposed community improvements are consistent with the area redevelopment plans and community revitalization.

10.3 Transferee. The application must identify and be signed by the ultimate transferee of the property from the LBA. The transferee should be a governmental entity, a not-for-profit property entity, or in rare cases a for-profit entity that is capable of holding and maintaining the property in the anticipated conditions and for the anticipated purposes.

10.4 Restrictive Covenants. The LBA, in the conveyance of the property to the transferee, will impose covenants, conditions and restrictions as necessary to ensure that the property is used for community improvement or other public purposes.

Section 11. Conduit Transfers - Reasonable Equity Policy

(This section is applicable only to those land banks which possess the power to extinguish delinquent property taxes and are willing to receive donations of tax delinquent properties and immediately reconvey them to a new transferee. This section is designed to guard against the situation where the owner of a tax delinquent property receive payment in excess of his "net equity" in the underlying property from the proposed ultimate transferee of the property.)

11.1 Purpose. In order to prevent benefits accruing to owners of property that is tax delinquent by virtue of the exercise of the tax waiver power of the LBA, the LBA establishes this reasonable equity policy.

11.2 Definitions. The reasonable equity policy is based on the value of the property and the equity of its owner. While any valuation of equity is subjective, it can be reasonably estimated.

(a) "Fair Market Value" shall be determined by staff according to the tax assessor's valuation, in conjunction with the average sale price in a given community. In instances where multiple valuations unreasonably differ, the staff or Board shall have full authority to require a professional appraisal. This appraisal shall be required only for proposals that have significant variances in valuation and entail transactions in which the owner received in excess of \$20,000.

(b) "Net Equity" shall mean the current fair market value, as determined by LBA staff, less the total amount of all liens and encumbrances (tax liens, associated interest and penalties; special assessments; mortgages; judgments, etc.).

11.3 Less than \$2,000 Net Equity. To ensure that an owner does not receive unwarranted benefit, the LBA will not consider transactions in which the owner's net equity is less than \$2,000 and the owner receives more than nominal compensation for the sale of his property. Nominal compensation is hereby defined as \$2,000.

11.4 Equity in Excess of \$2,000. To ensure that the owner does not receive an unwarranted benefit, the LBA will not participate in transactions in which the owner receives an amount greater than 75% of net equity.

- 11.5 Speculation. To ensure that speculators do not seek to take advantage of the LBA, staff shall closely review instances in which the owner is receiving money far in excess of his investment while consistently ignoring his tax responsibility. Particular attention shall be given to properties purchased in the past three years.
- 11.6 Excessive Sales Price. In communities that are experiencing internal and surrounding redevelopment, it is unacceptable for an owner to seek a profit in excess of 75% of his net equity. Such an owner may believe that the market will bear more than is offered and would therefore be unwilling to sell the property for a reasonable amount. In such an instance, it would fall to the Tax Commissioner's Office to bring the property to the courthouse steps, where the actual fair market value will be determined.
- 11.7 Non-Conforming Situations. To ensure the flexibility of the Board, the LBA will reserve the right to modify or change this policy if a situation clearly warrants a change in an effort to protect the interests of the LBA and the public.
- 11.8 Strategic Importance. To preserve the integrity of the LBA's mission, all properties petitioned to the LBA Board of Directors must pass the test of strategic importance. The LBA may receive proposals that may pass other criteria but which may not be crucial to the redevelopment of a neighborhood. Staff must be able to assure the LBA Board that the transaction is not simply allowable but a necessary component of the comprehensive redevelopment of a neighborhood. Such a transaction must be evaluated in terms of neighborhood redevelopment and ensure a long-term tax benefit to the City and County.

Section 12. Owner Occupant Policy

- 12.1 Scope. This section is applicable to those situations in which an individual (as opposed to a corporate not-for-profit or for-profit entity) contemplates conveying to the LBA real property that is encumbered by delinquent property taxes, having the taxes abated by the LBA, and the property reconveyed by the LBA to the individual for occupancy by that individual following construction of new housing or rehabilitation of existing housing.
- 12.2 Purpose. This policy is based on the opportunity for an individual to participate in the benefits derived from the authorization of tax extinguishment by the LBA where the individual applicant did not amass the tax delinquency, but desires to construct or rehabilitate housing in order to use the subject property as his or her own primary residence. Owner-occupant developers shall be required to meet the established LBA Board Petitioning Requirements which include the following: (a) Developer Profile, (b) Development Proposal, (c) Funding Commitment Letter, (d) Development Cost Estimate, (e) Site Control, and (f) Title Report.
- 12.3 Primary Residence. "Primary Residence" shall mean that upon completion of the construction or rehabilitation, the owner-occupant must reside in the property for a minimum active five (5) years and shall pay all tax obligations that become due and payable after the execution of the Sale and Disposition Contract. At the expiration of the five-year term, where an owner-occupant may seek to sell the property, the owner must offer the property for a sale price not to exceed the current fair market value.
- 12.4 Requirements and Conditions.
- (a) The applicant must either rehabilitate unoccupied substandard existing housing or create new housing where housing does not exist.

- (b) The subject property must not have been used by the applicant as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of the application.
- (c) The owner-occupant shall enter into a Sale and Disposition Contract with the Authority and shall be responsible for the completion of the construction or rehabilitation within the three-year time limit as prescribed in the covenants of the Contract.
- (d) The LBA will extinguish no delinquent taxes that were the responsibility of the applicant. This would include any taxes that the applicant was responsible for either as owner of the subject property or as a result of any contractual obligation. Such taxes, if any, must be paid prior to the LBA extinguishing any other taxes.
- (e) The owner-occupant shall provide evidence of clear title and the financial ability to perform said Contract with the expressed obligation to reside in the property for a minimum of five (5) years or the delinquent taxes will be reinstated.
- (f) During the term of the occupancy, the owner-occupant shall pay all ad valorem taxes that accrue and shall maintain the property in compliance with the required code enforcement ordinances of the governing jurisdiction.
- (g) The owner-occupant must meet the applicable household income standards established by the LBA.
- (h) If the applicant fails to honor any portion of his or her Contract with the LBA to provide new or rehabilitated housing, the applicant must make a payment of funds to the LBA in an amount equal to the amount of all taxes extinguished by the LBA pursuant to the Contract. These funds shall then be paid by the LBA to the respective taxing authorities in the same proportion as the taxes were levied prior to the extinguishment.

12.5 LBA Discretion. Applications shall be evaluated based on the long-term benefit to be derived from achieving the basic mandate of the LBA which seeks to return non-revenue generating parcels to a productive and effective use that will put the property back into an active tax revenue status.

Section 13. Side Lot Disposition Program

13.1 Side Lot Transfers. Individual parcels of property may be acquired by the Treasurer/Tax Commissioner, the County or the LBA and transferred to individuals in accordance with the following policies. The transfer of any given parcel of property in the Side Lot Disposition Program is subject to override by higher priorities as established by the LBA.

13.2 Qualified Properties. Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:

- (a) The property shall be vacant unimproved real property;
- (b) The property shall be physically contiguous to adjacent owner-occupied residential property, with not less than a 75% common boundary line at the side;
- (c) The property shall consist of no more than one lot capable of development. Initial priority shall be given to the disposition of properties of insufficient size to permit independent development; and
- (d) No more than one lot may be transferred per contiguous lot.

13.3 Side Lot Transferees.

- (a) All transferees must own the contiguous property, and priority is given to transferees who personally occupy the contiguous property.
- (b) The transferee must not own any real property (including both the contiguous lot and all other property in the County) that is subject to any unremediated citation of violation of the state and local codes and ordinances.
- (c) The transferee must not own any real property (including both the contiguous lot and all other property in the County) that is tax delinquent.
- (d) The transferee must not have been the prior owner of any real property in the County that was transferred to a local government as a result of tax foreclosure proceedings unless the LBA approves the anticipated disposition prior to the effective date of completion of such tax foreclosure proceedings.

13.4 Pricing.

- (a) Parcels of property that are not capable of independent development may be transferred for nominal consideration.
- (b) Parcels of property that are capable of independent development shall be transferred for consideration in an amount not less than the amount of the costs incurred in acquisition, demolition and maintenance of the lot.

13.5 Additional Requirements.

- (a) As a condition of transfer of a lot, the transfer must enter into an agreement that the lot transferred will be consolidated with the legal description of the contiguous lot, and not subject to subdivision or partition within a five-year period following the date of the transfer.
- (b) In the event that multiple adjacent property owners desire to acquire the same side lot, the lot shall either be transferred to the highest bidder for the property, or divided and transferred among the interested contiguous property owners.