

Spokane, Washington: Preliminary Analysis of Land Banking and other tools to Address Vacant and Abandoned Properties and Create a Pipeline for Affordable Housing

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Executive Summary

In January 2021, the Center for Community Progress (Community Progress) was engaged by Spokane Neighborhood Action Partners (SNAP) on behalf of the Invest Health Spokane team to explore whether a land bank is the right tool to address the inventory of vacant, abandoned, and deteriorated (VAD) properties and create a pipeline of affordable housing in Spokane.¹ The Invest Health Spokane team identified land banking as a priority given the connectivity of health and housing, and the negative impacts of VAD properties on public health, public safety, and community revitalization.²

Context

Over the course of six months, the following activities were completed for the engagement:

1. Legal and policy research related to land banking, delinquent property tax enforcement, and housing and building code enforcement to get a better understanding of the City's legal and policy toolbox to address VAD properties.
2. Preliminary review of available data regarding the inventory of vacant properties, including data related to ownership, code enforcement violations, and property tax

¹ Land banks are public entities with unique governmental powers, created pursuant to state-enabling legislation, that are solely focused on converting VAD properties into productive use according to local community goals. To learn more about land banking, please see *Land Banks and Land Banking* (2nd Ed.) by Frank S. Alexander available at: <http://www.communityprogress.net/filebin/LandBanksLandBankingVer2DigitalFinal.pdf>. To learn more about Community Progress, please visit www.communityprogress.net.

² Invest Health is an initiative of Reinvestment Fund and Robert Wood Johnson Foundation which brings together small to mid-size cities to address the social determinants of health and increase and influence investments in built environment projects that improve well-being and equity. For more information on this initiative, please visit <https://www.investhealth.org/about/>.

delinquency to get a better understanding of the problem and potential inventory of a land bank.

3. Interviews with City, County, and community stakeholders to: a) understand existing local efforts to address vacancy and abandonment; b) assess level of interdepartmental coordination to address VAD properties; and c) assess stakeholder goals and possible opportunities to design the structure of a potential City land bank and to gauge key initial land bank priorities.³
4. Ongoing education with local stakeholders focused on: a) the differences between land banks and community land trusts (CLTs); b) the potential roles of land banks in affordable housing; and c) the roles of land banks and CLTs in neighborhood stabilization, displacement, and gentrification.

Like other communities, Spokane is asking an important and seemingly simple question: **How can the current inventory of VAD properties be utilized to address the critical shortage of affordable housing in Spokane?** The answer, however, is a bit more complicated given the myriad of legal and economic barriers that keep these properties inaccessible to the private market and affordable housing organizations alike. Owners walk away from their property for a number of reasons, leaving the property in a state of legal limbo in terms of ownership and title, and often underwater in value given the amount of delinquent taxes, public liens, and other liabilities that exceed the current market value of the property. Even in appreciating real estate markets like Spokane, building new or rehabbing existing structures to create affordable housing often requires significant subsidy and the added time, capacity, and cost required to get clear title to these VAD properties can deter experienced mission-driven developers and nonprofit organizations.

Local government controls many of the tools and systems that are critical to unlocking VAD properties for productive use, such as affordable housing, and preventing these properties from going into decline in the first place. **Therefore, much of our work across the country is focused on understanding and maximizing these legal tools and systems prior to creating a land bank.** Systems that enforce local housing and building ordinance and codes and the collection of property taxes are often the first line of defense in stabilizing communities and ensuring protections are given to vulnerable owners and occupants to prevent displacement. These same systems—housing and building code enforcement and delinquent property tax enforcement—are also the primary means by which local governments can acquire VAD properties and predictably steward them to responsible buyers and potential reuses that match community priorities. In fact, many communities considered to have some of the most effective models of land banking also have state-enabling land bank legislation that gives them the requisite powers to integrate with and leverage these legal systems, in effect building a cost-

³ A list of local stakeholders that were interviewed and/or involved with helping to inform this work are included in Appendix A.

effective pipeline of VAD properties that can be transformed to assets that serve neighbors and neighborhoods.

It is of no surprise then that our work in Spokane is primarily focused on these legal systems that are on the front line of controlling the trajectory of VAD properties and controlled by the City and County governments – ordinance enforcement (Chronic Nuisance Ordinance and Existing Building and Conservation Code) and delinquent property tax enforcement given:

- They *prevent properties from going into decline* by holding property owners accountable for the physical conditions of their properties and the collection of property taxes that are used to fund critical taxpayer services.
- If property owners are not responsive, these systems should enable the local government to *recover the money* for any costs it incurred to remediate any nuisances and protect public health and safety.
- If all else fails and special protections are given to vulnerable occupants and property owners, these systems should also be able to *transfer the property* into new, responsible ownership (*possibly a land bank*) to support local community goals, such as affordable housing.

Key Takeaways

The key takeaways of this preliminary research and analysis, review of data, and discussions with local stakeholders include:

- There is alignment with the priorities of the Invest Health Spokane team and the City of Spokane relating to addressing VAD properties and creating a pipeline of affordable housing as evidenced by the recently adopted Spokane Housing Action Plan.⁴
- There is an opportunity to build off the good work of those responsible for enforcing the City’s Chronic Nuisance Ordinance and Existing Building Ordinance by improving collaboration and data collection, sharing, and analysis, as well as systematizing the filing and enforcement of liens.
- With improved coordination among the offices of the City Treasurer and Spokane County Auditor, there is a likelihood that additional revenue can be collected through the enforcement of liens to fully compensate the City for remedying nuisances in order to protect the public health and safety of its citizens.
- In addition to strengthening the City’s finances, increased collaboration and coordination among ordinance and code enforcement and delinquent tax enforcement

⁴ Adopted by City Council on July 26, 2021, the Spokane Housing Action Plan includes several sections that refer to land banks and code enforcement to increase and preserve affordable housing. For more information, please visit <https://static.spokanecity.org/documents/projects/spokane-housing-action-plan/spokane-housing-action-plan-final-with-appendices-2021-07-26.pdf>.

may lead to a limited but steady pipeline of VAD property that can go to a land bank or other new, responsible party for affordable housing.

- Both the public tax auction and the receivership program are the two main vehicles to compel a transfer of VAD property in Spokane and both work well in certain scenarios, but also lend themselves to a speculative market, in which properties are offered for the highest bid versus best outcome. In many communities, land banks are used as an alternative to this speculative market, intentionally bringing properties under temporary public stewardship, to provide more flexibility in sales price, more discretion in prioritizing responsible transferees, and more control over the outcome matching locally determined goals, like affordable housing.
- Given the requisite legal powers, political and community support, capacity, and funding needed for a land bank to be most effective in addressing VAD properties, local stakeholders in Spokane should continue careful exploration of the merits of a land bank versus maximizing other existing tools available in Spokane.

Integrated Policy Agenda

In order to achieve the maximum efficiency and effectiveness in simultaneously addressing the existing inventories of VAD properties, and in establishing an inventory pipeline of such properties to be used for affordable housing, three policy objectives should be pursued in a coordinated manner. These are coordinated ordinance enforcement, discrete state statutory amendments related to ordinance enforcement liens and property taxes, and state land bank legislation.

A. Coordinated Ordinance Enforcement. As described in Part II of this report, the two existing forms of City ordinance enforcement, the Chronic Nuisance Ordinance and the Existing Building Ordinance, are designed and administered in separate departments with minimal tactical and programmatic coordination. They do not follow uniform procedures for the creation and filing of public liens or the transmittal of liens to the County Treasurer for addition to the property tax bills.

B. Statutory Amendments Related to Public Liens and Property Taxes. Also as noted in Part II of this report, existing state statutes either fail to address the relationship of public liens to property tax bills, or do so in a manner which is inconsistent or ambiguous.

C. Land Bank Legislation. The State of Washington does not have at the present time enabling legislation which would authorize local governments to create local land bank authorities by local ordinance. Such state enabling legislation has been enacted in over 15 states in recent years, leading to the creation of over 250 local banks in the United States.⁵

⁵ A template form of state land bank legislation is set forth as Appendix D in *Land Banks and Land Banking* (2nd Ed.) by Frank S. Alexander which is available at: <http://www.communityprogress.net/filebin/LandBanksLandBankingVer2DigitalFinal.pdf>.

All three of these policy objectives are necessary conditions. Land bank legislation without the first two policy changes will be marginally effective at best. Achieving coordinated ordinance enforcement or even technical amendments related to public liens and property taxes would be a positive step forward, but it would likely result in inventory being absorbed by private speculative investors rather than used by the City to accomplish goals such as affordable housing. **If, however, all three policy objectives are pursued and implemented the City of Spokane will be able to maximize reducing the inventory of VAD properties and using such inventory for affordable housing or other public priorities.**

The format of this report is unique in that it seeks to respond to two critical needs that, pursuant to the overall project goals, emerged throughout this engagement and in conversation with local stakeholders: (1) general education about land banks, and (2) analysis of the key legal systems that impact VAD properties. This report responds to both of these needs by combining two separate but connected writing pieces:

1. Part I provides an overview of land banks and their role in affordable housing, with a special note on community land trusts (CLTs) given the need to clarify the different yet complimentary roles that land banks and CLTs play in community stabilization and revitalization.
2. Part II includes a preliminary analysis of the legal and programmatic tools and systems to address VAD properties, with a focus on how to fully recover the City's costs in addressing irresponsible property owners and/or force the property to be transferred to new, responsible ownership to support local community goals such as affordable housing.

The focus of this report is on vacant and unlawfully occupied properties that are causing harm to a community given the increased prevalence of public health and safety risks to residents and first responders, increased costs to taxpayers to dispatch ordinance enforcement and public safety services, loss of critical tax revenue to provide basic services to residents, and the loss of equity for 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 parts of this report that are more technical (and transactional) in nature, 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 public health and safety of citizens, safeguard the equity of homeowners, and create opportunities to transform liabilities into assets that support Spokane's affordable housing goals.

Finally, this report could not have been made possible without the support and leadership of SNAP and the Invest Health Spokane team as well as the following City departments: Department of Neighborhoods, Housing, and Human Services; Code Enforcement team under the Department of Development Services; and Chronic Nuisance Property Enforcement team under the Police Department.

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

Part I: Overview of Land Banks and their Role in Affordable Housing

Throughout our discussions with local stakeholders, land banks and community land trusts (CLTs) were used interchangeably. Therefore, it is important to begin with clarification on what these tools are, how they are different yet complimentary, and what their role can be in addressing vacant, abandoned, and deteriorated (VAD) properties and creating a pipeline of affordable housing. Following this educational overview, key considerations are offered for local stakeholders to contemplate as they move forward with discussions about a potential land bank in Spokane.

What is a land bank?

Over the past 40 years, the majority of land banks have been created across the country as public entities with unique governmental powers, usually public nonprofit corporations or public authorities, that are solely focused on converting VAD properties into productive use. There are over 250 land banks in operation across the country, many of which were developed in the last decade as a direct response to the Great Recession and the resulting increase in vacancy and abandonment.⁶ Land banks are one of several tools in a larger system that seeks to break the cycle of vacancy and abandonment in any given community. Most land banks focus on a subset of VAD properties that are causing the most harm to a community by creating public health and safety hazards, driving down property values, and draining local tax dollars through repeated service calls for police, fire, and housing and building code enforcement resources. The targeted inventory of land banks are usually those properties that the private market has rejected given various legal and financial barriers, such as tax or other public liens against the property, that exceed the value of the property. The overwhelming majority of properties that enter a land bank's portfolio come through the local delinquent property tax enforcement pipeline.

Many of the most effective land banks around the country have special powers granted by state-enabling legislation that allow them to undertake their work effectively and efficiently, and they have the authority and flexibility to focus on more equitable outcomes in line with the good of the community. State-enabling legislation can allow a land bank to use 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 also allow land banks to market and convey properties more flexibly than local governments, prioritizing best outcome over highest offer. The best state-enabling legislation also identifies sources of dedicated funding to help pay for land bank operations.

⁶ Graziani, K. and Abdelazim, T. 2020. "From the Great Recession to COVID-19: Land Banks Are Critical to Long-Term Equitable Recovery." *Community Progress Blog, Center for Community Progress*. <https://www.communityprogress.net/blog/great-recession-covid19-land-banks-critical-longterm-equitable-recovery>.

When does it make sense to use a land bank?

Any community considering the creation of a land bank should assess a number of factors to determine if a land bank is needed or likely to be successful. Some common triggers for creating a land bank include:

- Large inventories of VAD property
- Properties with delinquent taxes, liens, and other encumbrances in excess of fair market value
- Properties with title problems
- Ineffective tax foreclosure procedures
- Restrictive public property disposition processes

Some jurisdictions may already have an entity or agency (e.g., a redevelopment authority) that is empowered with tools to effectively take control of large inventories of VAD properties and return them to productive use. Others may have such an agency or entity, but that entity is focused centrally on development, rather than neighborhood stabilization and elimination of vacancy and abandonment and so they opt to develop a land bank through state-enabling legislation and/or local ordinance.

In the right circumstances, a land bank can help return VAD properties to productive use. However, it is important to remember that land banks are designed to respond to a subset of the circumstances that create disinvestment – vacancy, abandonment, and tax delinquency, and, as such, a land bank is simply one element of a comprehensive set of local or regional strategies and tools. The policies, priorities, and activities of a land bank must compliment other efforts in the community, including planning and community engagement, delinquent property tax enforcement, strategic code enforcement, and redevelopment, to name a few.

What are the key elements of successful land banks?

While all land banks exist to serve the same primary purpose of acquiring VAD properties and returning them to productive use, they are quite diverse in their structure and operations. Land banks across the country vary greatly in the type of city, region, and economy in which they operate; the size of their inventory and capacity; and legal authority, goals, and programs. Despite this diversity, there are some key elements to successful land banking programs:

- *Strategic links to the tax collection and foreclosure process.* The tax foreclosure process serves as a primary source of inventory for virtually all land banks. This is particularly true in communities where one primary cause of vacancy and abandonment is an ineffective tax foreclosure process and where there are statutory powers, intergovernmental agreements, or policies in place for a land bank to efficiently acquire properties through the tax foreclosure process at little to no cost.

- *Operations scaled in response to local land use goals.* A land bank's disposition strategies directly help achieve the goals set by the land bank board and can support the implementation of local land use goals. As a result, land banks are often authorized to transfer ownership for a range of compensation, not simply for the highest cash bid or market value.
- *Policy-driven, transparent, and publicly accountable transactions.* Property acquisition and disposition – especially of properties that may have long been eyesores and harmful to a community – is an important and sensitive endeavor. Therefore, there is a great need to build trust with the public through complete transparency in the establishment of priorities, policies, and procedures that govern all actions of a land bank.
- *Engagement with residents and other community stakeholders most impacted by vacancy and abandonment.* There is no substitute for engaged community stakeholders who understand a community's history and goals. Engaged community members in those neighborhoods where land banks operate are essential to help prioritize land bank interventions and develop long-term solutions. Many land banks engage residents most impacted by vacancy and abandonment through the make-up of their board, by establishing formal or informal community advisory committees, and/or by routinely hosting public forums.
- *Alignment with other local or regional tools and community programs.* Because a land bank is a tool to support locally developed land use goals, and is not a goal in and of itself, it is important to coordinate with other tools and programs also targeted at achieving the same goals. Land bank operations should be aligned with the operations of tax enforcement, code enforcement, and planning and redevelopment agencies.

The inventory of a land bank derives primarily from the enforcement of public liens such as property taxes or code enforcement, or both, and most commonly occurs when the aggregate amount of such liens is equal to or exceeds fair market value. Land banks can also acquire inventory through donative transfers from owners who no longer have interest in the property, through open market purchases, and through direct transfers of surplus property from the local government that creates the land bank. No existing land bank in the United States has the power of eminent domain, but it is entirely possible that property originally acquired by a local government through the exercise of eminent domain can be subsequently transferred to a land bank.

A land bank is not a panacea for all problems associated with vacancy and abandonment, or even a necessary entity in many cities and towns, but in the right environment and with the right legal structure a land bank can be a key tool for returning VAD property to productive use.

Land Banks, Community Land Trusts, and Affordable Housing

In many communities, affordable housing has been identified as a top community priority which creates an ideal opportunity for a land bank to prioritize affordable housing in their

disposition policies and preferred transferees. More land banks are also exploring partnerships with community land trusts (CLTs).⁷ Pairing a land bank’s ability to acquire and get clear title quickly and inexpensively with a CLT’s pipeline of qualified home purchasers can create a powerful partnership to foster lasting affordable housing and neighborhood stability. In some circumstances, land banks and CLTs have decided to work together to proactively identify properties to support mutual goals.

Table 1: Comparison of Land Banks and CLTs

	Land Banks	Community Land Trusts
Mission	Stabilize and revitalize problem properties, guided by local community goals	Primarily but not exclusively, supports local community goal of lasting affordability
Structure	As a public entity with limited governmental powers	As a private nonprofit
Governance	Board defined by state statute or local ordinance, usually a mix of elected and public officials, professionals with relevant subject matter expertise, and community representatives	Tripartite board including CLT residents, community residents, and nonprofit and public representatives
Property Acquisition	Through special acquisition powers via state-enabling legislation (generally through tax or lien foreclosure, no eminent domain)	No special acquisition powers although nonprofit status may allow for some preferred access
Tenure of Ownership	Generally short term, but able to hold long term	Perpetual ownership of the land
Property Disposition	Sell property in a diligent, yet expedited manner for flexible price to achieve community outcomes	Sell structure only to income qualified buyer while land ownership remains with CLT

Land banks and CLTs serve different yet complementary roles in supporting equitable development and were both designed to respond to different systemic challenges to support local community goals, and they do this in different ways and for different time frames.

⁷ Zehner, Emily. 2020. “Opening Doors: Land Banks and Community Land Trusts Partner to Unlock Affordable Housing Opportunities.” *Land Lines*, Lincoln Institute of Land Policy.
<https://www.lincolninst.edu/publications/articles/2020-10-opening-doors-land-banks-community-land-trusts-partner-affordable-housing>.

The community land trust model in the United States was pioneered by Black farmers during the civil rights movement to ensure land tenure for their families.⁸ The historical roots of the CLT model are aligned with many of the goals of the national civil rights movement: supporting ownership and control of land and achieving greater economic security for Black individuals and families.⁹ As more communities realized the potential of CLTs to preserve permanent access to land for additional uses such as affordable housing, the number of CLTs inevitably grew, numbering more than 270 today.¹⁰

Although many variations on the model exist, CLTs are most often private, nonprofit organizations that own property where the land and the structure are separated. The CLT retains ownership of the land and enters a 99-year renewable ground lease with the homeowner. The homeowner purchases the structure on the land at a subsidized price, pays the mortgage (and property taxes) on the structure, and, per the terms of the CLT ground lease, is responsible for upkeep and maintenance of the entire property (land and structure), making the arrangement little different from traditional homeownership. Given that the purchase price is subsidized, the CLT model increases access to homeownership for those who could not pay full market price. The CLT ground lease ensures that most of the cost savings realized by the original CLT homeowner are passed on to future purchasers and owners by placing limits on the future sales price of the property so that the home remains accessible to low- to moderate-income homebuyers at an affordable rate in perpetuity. Typically, the development, rehab, or purchase of CLT homes is subsidized through public or philanthropic funds, and this subsidy stays with the property forever, underwriting the purchase price again and again for generations of owners.

Across the country, the impacts of land banks and CLTs are impressive. Communities with land banks are showing incredible signs of progress, demolishing hundreds of blighted structures, stewarding pipelines of properties in support of local ownership, reducing absentee landlordism and speculation, increasing the supply of quality affordable housing, and attracting private investment to neighborhoods where most financial institutions still fail to lend. As the number of CLTs has grown, more families are taking advantage of this shared equity model of homeownership and there are promising signs that progress is being made to narrow the racial wealth gap.¹¹ The CLT model has proven to be resilient, too. As the impact of the Great

⁸ Center for Community Land Trust Innovation. “A Gardener’s Guide to the Origins and Evolution of the Community Land Trust.” *Roots & Branches*. <http://cltroots.org/the-guide/early-hybrids-breeding-and-seeding-the-clt-model/georgia-seedbed>.

⁹ Velasco, G. 2020. “How Community Land Trusts Can Advance Racial and Economic Justice: An Expert Q&A.” *Housing Matters*, Urban Institute. <https://housingmatters.urban.org/articles/how-community-land-trusts-can-advance-racial-and-economic-justice>.

¹⁰ Emmeus, J., and Jacobus, R. 2008. “The City-CLT Partnership: Municipal Support for Community Land Trusts.” Lincoln Institute of Land Policy. <https://www.lincolnst.edu/publications/policy-focus-reports/city-clt-partnership>.

¹¹ Wand, R., Cahen, C., Acolin, A., and Walter, R. 2019. “Tracking Growth and Evaluating Performance of Shared Equity Homeownership Programs During Housing Market Fluctuations.” Working Paper,

Recession rippled through our communities, the mortgage foreclosure rates of CLT homeowners were significantly lower than those of conventional homeowners.¹² When land banks and CLTs are aligned, a model is created that, when properly capitalized, can transform decades of distress into long-term community investments that are equitable *and* resilient to future crises.

Key Considerations Moving Forward

There is at the present time a state statute in Washington creating a land bank program.¹³ However, care needs to be taken not to confuse this statute, and this program, with “land banks” and “land banking” as it has been more commonly used over the past two decades. This statute creates a **program** (not a separate legal entity) at the state level within the Department of Natural Resources (DNR). The program permits DNR to purchase and hold up to 1500 acres of land for natural resources (and public land management) and income production. The statute expressly contemplates potential exchanges with urban governments of land bank land. If the decision is made to pursue a land bank that is focused on VAD properties in Spokane, local stakeholders should consider seeking new state-enabling land bank legislation that will provide the requisite powers to overcome legal and financial barriers associated with this type of property inventory.

The need for, and utility of, a land bank in Spokane, rests primarily on properties that are currently being processed either through the property tax enforcement systems or the two receiverships programs. If either, or both, of these systems are *not* regularly resulting in the timely transformation of VAD properties by responsible owners into uses consistent with public goals, then a land bank may be appropriate.

Given the relative efficiency of the current property tax collection and enforcement system, the low number of properties taken to a tax auction each year, and the overall appreciating housing market in Spokane, the question about whether a land bank is needed is less timely. However, as the next section discusses in more detail, there are a number of actions the City can take in the short- and mid-term to improve and reform both the legal systems and internal operations that could *in time* generate a more robust pipeline of VAD properties that would then warrant a more in-depth evaluation of land bank possibilities. Prioritizing these reforms now will not only make a future discussion about land banking more relevant and appropriate, but they will also improve the City’s preventative approach to property decline *and* ensure the City is recovering their costs to ensure public health and safety.

Lincoln Institute of Land Policy. <https://www.lincolninst.edu/publications/working-papers/tracking-growth-evaluating-performance-shared-equity-homeownership>.

¹² Thaden, E. and Rosenberg, G. 2010. “Outperforming the Market: Delinquency and Foreclosure Rates in Community Land Trusts.” Lincoln Institute of Land Policy. <https://www.lincolninst.edu/publications/articles/outperforming-market>.

¹³ RCW §79.19.010.

Part II: Legal and Programmatic Tools and Systems

Before creating a new tool like a land bank, it is important to have a good understanding of the existing tools and systems that are already available to address vacant, abandoned, and deteriorated (VAD) properties and support local community goals. The primary legal systems implicated by VAD properties are housing and building code enforcement (ordinance enforcement) and delinquent property tax enforcement. Part II of this report begins with a general overview of which legal systems are available in Spokane in the context of VAD, which is then followed by preliminary observations and considerations related to how these systems are enforced and coordinated. While many of the considerations are intended to increase the pipeline of VAD properties and potentially the need for a land bank, implementing many of them will also yield significant benefits, including increasing operational efficiencies, strengthening preventative strategies, and improving the City's recovery of costs to ensure the public health and safety of its residents.

I. Understanding the Two Key Legal Systems

In the context of dealing with VAD properties in their communities, local governments most commonly have two systems of statutes and ordinances that are directly involved: housing and building code enforcement (ordinance enforcement) and property tax enforcement.¹⁴ The ordinance enforcement system is usually set forth in detail in the form of municipal ordinances either addressing public nuisances or containing specific housing and building code minimum requirements. The property tax enforcement system is most commonly grounded at the county level in the office of the county auditor or tax collector. In both systems state statutes provide the essential legal foundation.

Both of these legal systems come into play when evaluating the reasons for the existence of inventories of VAD properties in any given community. One or both of these systems may be grounded in public policies implemented over a century ago, or they may not have been modified to reflect shifts in urban design and land use policies. Both systems may lack features that permit them to serve the common good in a manner which is efficient, effective, and equitable. Either, or both, of the systems may contain within them breaks and barriers which actually contribute to the existence of VAD properties.

Though these legal systems may be contributing factors to VAD properties they also contain in them the conceptual foundation for new approaches. In every state in the country property tax laws carry a unique feature of “super priority” status, providing that the lien for property taxes is senior to all other liens and encumbrances against the property. The key significance of this is that the completion of an enforcement procedure for delinquent property taxes can, or should, result in the transfer of the property to a new owner free and clear of all encumbrances with insurable and marketable title. In a growing number of jurisdictions across

¹⁴ As per request by local stakeholders, ordinance enforcement refers to the enforcement of both Chronic Building Ordinance and Existing Building and Preservation Code.

the country, the second system, that of lien enforcement, is being “merged” into the property tax enforcement system by the simple step of adding to the tax bills these additional public liens.

Evaluating VAD properties through the lens of these two primary legal systems is a necessary but not sufficient condition to design the optimum strategic approaches. It is common that the existence of inventories of VAD properties is tolerated by administrative and programmatic decisions in the use of these two systems to create solutions. The various code enforcement programs may tend to focus on inspections and coordinating with property owners for repairs or other compliance yet fail to focus on final enforcement actions in the absence of compliance. The programs may be effective in citations but lack the necessary procedures for recoding of public liens and ensuring the transmittal of enforcement liens to the appropriate property tax enforcement officials. Coordinating with property owners to achieve voluntary compliance is and should be the primary goal. In the context of VAD properties, however, owners are neither responsive nor responsible and the transfer of the property to a new owner is necessary.

Helping communities create an effective, efficient, and equitable approach to moving VAD properties to new responsible owners in a predictable manner that advances community goals is at the core of the technical assistance provided by Community Progress. Land banks are only one piece of this overarching goal, and not always needed. The next section of this report offers preliminary observations with respect to the City of Spokane’s legal and programmatic tools for addressing VAD properties, and embeds recommendations throughout that may elevate the need of a land bank but will also increase operational efficiencies, strengthen efforts to prevent property decline, and improve municipal finances.

II. Legal and Operational Analysis: Preliminary Observations and Recommendations

This preliminary analysis is divided into five categories: (1) the multiple enforcement processes, (2) the financial aspects of lien enforcement, (3) property tax enforcement, (4) receivership programs, and (5) the mortgage registry program.

1. Multiple Ordinance Enforcement Processes

The City of Spokane Municipal Code (SMC) sets forth two distinct ordinances for property conditions that bear directly on VAD properties. These are the Chronic Nuisance Ordinance¹⁵ and the Existing Building and Conservation Code.¹⁶ These two different approaches are administratively and programmatically directed by different departments with different teams. The Chronic Nuisance Ordinance is within the scope of Public Safety and serves primarily to respond to concerns of criminal activity and specified nuisances, which include both property conditions and human behaviors. The Existing Building Ordinance serves primarily to

¹⁵ SMC Chapter 10.08A.

¹⁶ SMC Chapter 17F.070.

respond to properties with improvements which fail to comply with minimum housing and building maintenance standards. The Chronic Nuisance Ordinance contains within it both the possibility of criminal sanctions and administrative civil proceedings as enforcement mechanisms. The Existing Building Ordinance relies on building inspections, an administrative hearing process, and public liens.¹⁷

The Existing Building Ordinance creates an administrative hearing process before the “Building Official”, with citations, notice, and opportunity to cure. Emphasis is placed on working with property owners in a preventative manner to achieve compliance prior to further deterioration. Once in the hearing process the cure period can range from weeks to years. The Existing Building Ordinance appears relatively effective in symptom mitigation and “voluntary” compliance at the lower end of violations and largely ineffective when there is no compliance by property owners. At the higher end of violations, where demolition is probable, the City of Spokane has become reluctant in recent years to appropriate sufficient funds for demolition which has led to the creation of the new receivership approach. In addition to establishing standards for the condition of buildings and improvements, the Existing Building Ordinance confers legal authority over property conditions unrelated to the structures themselves (such as grass, weeds, garbage, appliances) which are addressed through inspections, notices, and the possibility of a civil infraction system.

The Existing Building Ordinance contains specific definitions for “Abandoned”, “Boarded Up Building”, “Substandard Building”, and “Unfit Building”.¹⁸ After one year a Boarded Up Building becomes classified as an Unfit Building. The procedures for the Existing Building Ordinance involve an Inspection Report and the Issuance of a Complaint,¹⁹ a Departmental Hearing,²⁰ and a Hearing Order at which point all costs and expenses can become an assessment lien,²¹ and an annual fee for the administrative process, which can be filed as a lien.²²

The Chronic Nuisance Ordinance contains an unusual hybrid of being both a criminal citation approach and a civil enforcement approach. The Chronic Nuisance Ordinance permits both criminal liability enforcement as well as civil *in personam* liability, *in rem* liability, and receivership proceedings.²³ From a legal perspective, *in personam* proceedings seek to hold an individual, or corporation, liable for compliance and must meet all of the legal requirements for

¹⁷ For purposes of clarity and simplicity these two different sections of the SMC are referred to as the Chronic Nuisance Ordinance and the Existing Building Ordinance.

¹⁸ These definitions are set forth in SMC Chapter 17F.070: “Abandoned”, 17F.070.030, “Boarded Up Building”, 17F.070.040, “Substandard Building”, 17F.070.130, and “Unfit Building”, 17F.070.410.

¹⁹ SMC 17F.070.420.

²⁰ SMC 17F.070.440.

²¹ SMC 17F.070.450.

²² SMC 17F.070.470 and 17F.070.500.

²³ SMC 10.08A.045, 10.08A.050.

gaining jurisdiction over the defendant in the civil proceeding. In contrast, an *in rem* proceeding seeks to impose a lien on the property and does not require personal jurisdiction. From a programmatic perspective, the administration of the Chronic Nuisance Ordinance has elected to pursue enforcement as to property conditions only through the Superior Court civil proceeding, in which the primary liability is imposed as *in rem* liability. This decision reflects some of the best practices that have evolved in recent decades across the county. As a general proposition, reliance on criminal sanctions for the enforcement of property maintenance ordinances has a very low rate of success and is usually counter-productive both financially and as a matter of social and racial equity. Monetary fines pose disproportionate burdens on low-income individuals and families, and criminal proceedings for property conditions are actually counterproductive when the property is owned by low-income families. Similarly, civil personal liability for violations is rarely cost efficient due to the defendant's lack of equity and assets. Enforcement proceedings against the property itself, *in rem* liability, which is the primary focus of the Chronic Nuisance Ordinance is the most efficient, effective, and equitable approach to ordinance violations.

The Chronic Nuisance Ordinance Program is primarily complaint driven and reactive in nature. Investigations arise primarily in response to calls and complaints to the police department. While this is an important indication of neighborhood and community concerns, such a process is frequently underinclusive with respect to the inventory of VAD properties as some properties may meet the definitions of nuisance within this ordinance but not be brought to the attention of Public Safety. The Existing Building Ordinance Program also responds to calls and complaints and is structured programmatically to include more proactive assessments of existing inventory conditions.

- 1.1 Consider a possible proactive strategy based in part on (i) neighborhood GIS scans of property with improvements, (ii) utility cut-offs, and (iii) property tax delinquency. The Building Blocks data set of Tolemi is currently being used by the City of Spokane to provide critical information at the parcel level, as well as at the neighborhood level.
- 1.2 Consider maintaining a current list at all times of the specific parcels that are classified as Abandoned, Boarded Up, Substandard, or Unfit, the data by which such determination was made, and the actions taken.
- 1.3 Consider the possibility of establishing a regular (weekly or biweekly) meeting of the core staff of the Chronic Nuisance Ordinance Program and the Existing Building Ordinance Program to identify the top ten, or top twenty, specific VAD properties which need to be addressed. In this meeting, decide whether the Chronic Nuisance Ordinance or the Existing Building Ordinance should be used as the primary enforcement program.
- 1.4 Consider ways to reduce, or eliminate, multiple extensions and continuances being granted through the Building Official hearing process of the Existing Building Ordinance.

2. Financial Aspects of Lien Enforcement

Public liens related to the various forms of property condition violations identified in the SMC involve three constituent parts: (A) the elements of public expenditures, administrative costs, fines, penalties, and interest; (B) the extent to which such amounts are secured by a lien on the property; and (C) the relative priority of the lien and its enforcement by adding it to the tax bill or by procedures independent of taxes. As there are two separate enforcement procedures in the two programs of the Chronic Nuisance Ordinance and the Existing Building Ordinance, these constituent elements of liens and lien enforcement require tracing double lines of analysis.

A. Elements of Enforcement Costs. Given the range of approaches to enforcement it is not clear which potential costs and charges could be collected or are being collected. As a general proposition, recoverable costs for violations should include (i) direct expenditures by the City, (ii) allocated overhead of City inspectors for inspections that result in a violation including all administrative enforcement staff time, (iii) fines and penalties set forth in the SMC, (iv) interest on all amounts, and (v) costs and expenses of direct enforcement actions.

The Chronic Nuisance Ordinance authorizes the Superior Court to impose a “fine, civil penalty, or award damages”.²⁴ The Existing Building Ordinance provides that a final order resulting from the Administrative Hearing includes assessment against the property of any costs and expenses in seeking compliance.²⁵ The potential costs which may be included in a lien include all costs to the City, costs of administration, and any required relocation assistance payments.²⁶

B. Costs and Charges Secured by Public Liens. Part of the challenge faced by the City of Spokane lies in the parallel yet disconnected and only partially overlapping systems by which costs, charges, and expenses can be levied upon the subject property. The SMC permits “all costs and expenses incurred by the City in administration and enforcement” of the Existing Building Ordinance to be charged against the owner and assessed against the property.²⁷ It also specifies an annual fee of \$1500, renewable every twelve months, that can be included in a lien.²⁸

The Chronic Nuisance Ordinance provides that “any fine, civil penalty, and/or expense may be filed with the City Treasurer who shall cause the same to be filed as a lien”.²⁹ A judicial

²⁴ SMC 10.08A.050(C)(3).

²⁵ SMC 17F.070.450(B).

²⁶ SMC 17F.070.500.

²⁷ SMC 08.02.67(A).

²⁸ SMC 08.02.067(D)(4).

²⁹ SMC 10.08A.050(E).

complaint under the Existing Building Ordinance is accompanied by the filing of a *lis pendens* against the property.³⁰

Given the dual approaches of the Chronic Nuisance Ordinance Program and the Existing Building Ordinance Program, it is not clear as to each such program how many charges and liens are provided to the City Treasurer each year, how many of those are transmitted to the County Treasurer each year, and the effective rate of collection on such charges and liens.

- 2.1 Consider the creation of a standard procedure, for both the Chronic Nuisance Ordinance and the Existing Building Ordinance, by which all liens are structured to include maximum amounts of fines, penalties, interest, and direct costs, and ensure that the fines established in the SMC include the appropriate amounts of indirect costs such as staff overhead related to inspections and program administration.
- 2.2 Consider creating a standard program for the monthly transmittal by the Chronic Nuisance Ordinance Program and the Existing Building Ordinance Program to the City of Spokane Treasurer of the total dollar amount secured by each lien on each parcel of property.
- 2.3 Create a standard procedure for the transmittal on a semi-annual or annual basis by the City of Spokane Treasurer to the Spokane County Auditor of liens and lien amounts attached to each parcel of property. Ensure coordination between the City Treasurer and the County Auditor of the inclusion of such amount in the annual tax bills for such property, including in the Minimum Bid at any tax auction.
- 2.4 Track all collections by the Spokane County Treasurer of amounts for payment of all liens and transfer of such funds to the City of Spokane.
- 2.5 Consider the possibility of using the funds generated by payment of all lien amounts to support the budgets of the Chronic Nuisance Ordinance Program and the Existing Building Ordinance Program.

C. Relative Priority of Liens and Enforcement as Part of Tax Bill. Key to the enforcement of ordinances designed to address substandard property conditions generally, and VAD properties in particular, is the ability to enforce a lien for the costs in an efficient and effective manner. As there does not appear to be a separate state statute on lien priority derived solely from local ordinances, the key statutory approach is that which allows local governments to add the liens to the annual property tax bill.³¹ This approach creates the super-priority status of the enforcement lien³² and permits its collection as part of the property tax enforcement system. This state law provides that the “cost of such repairs, alterations or improvements, or

³⁰ SMC 17F.070.420(A)(5).

³¹ RCW Chapter 35.80.

³² RCW §35.80.030(1)(h).

vacating and closing, or removal or demolition” shall be assessed against the property and upon certification by the City Treasurer shall become part of the general taxes and collected as part of delinquent tax collection.³³

At the present time it is not entirely clear whether the administrative costs of enforcement of the Chronic Nuisance Ordinance or the Existing Building Ordinance can be included in the enforcement liens which are added to the property tax bill. A recent letter opinion of the Attorney General of Washington expressed the opinion that the existing statute does not authorize the inclusion of administrative costs.³⁴ At a minimum, this opinion raises questions about the constituent elements of liens which can be added to the tax bill such as administrative costs, and by implication it raises questions about the potential inclusion of fines and penalties, or the annual fees found in the Existing Building Ordinance.³⁵

- 2.6 Additional research needs to be undertaken to evaluate the extent to which other existing Washington statutes provide adequate authority for the scope of the permissible elements of a public lien which may be incorporated in the property tax bill.
- 2.7 Consider the possibility of clarifying state legislative amendments to address the scope of lien enforcement charges that may be included in the property tax bill.

It is not self-evident that the Chronic Nuisance Ordinance charges, and the Existing Building Ordinance charges, both of which may be filed as a lien, are programmatically being filed with the City of Spokane Treasurer or transmitted to the Spokane County Auditor on a regular basis in order to be added to the priority tax bill and achieve super-priority of taxes.

- 2.8 Consider tracking and monitoring on a regular basis all liens and charges and their transmittal to the City Treasurer, and correspondingly the transmittal of such liens and amounts to the Spokane County Auditor.
- 2.9 As to all such liens that are transmitted by the City Treasurer to the Spokane County Auditor for addition to the property tax bills, track and monitor the total payments received by the City of Spokane.

When a VAD property has extensive Chronic Nuisance Ordinance or Existing Building Ordinance violations yet no delinquent property taxes as of the date of the violations, there is often uncertainty as to how to proceed. When this situation occurs the simple and most direct approach is to make sure that the ordinance violation liens are in fact being included in the tax bill, in which case either the amounts will be repaid, or the property will be taken to a tax auction. It is only when the ordinance violation charges are not eligible to be added to the tax bill that alternative remedies, such as criminal sanctions or personal civil liability, should be pursued.

³³ RCW §35.80.030(h).

³⁴ Letter Op. Atty Gen. Wash., July 16, 2020, (addressed to the Honorable Marcus Riccelli).

³⁵ SMC 08.02.067(D)(4).

- 2.10 In the event that state legislative amendments to clarify and broaden the definition of costs eligible to be added to the tax bill are not possible, consider the possibility of a separate state statutory amendment that would expressly grant super-priority status to municipal ordinance liens, subject only to property taxes, and permit such liens to be enforced in an expedited civil judicial proceeding which is *in rem* in nature.

Though the enforcement of property condition violations against substandard rental property is beyond the focus of this analysis, this is an important aspect of most municipal programs. Enforcement actions against these properties may trigger the need for Rental Relocation Assistance.³⁶ It appears that rental relocation assistance payments by the municipality are able to be converted into an enforcement lien against the property and incorporated into the annual tax bill.³⁷ There is no express reference in the general state statute which enables local ordinances to include a broader range of enforcement liens to be added to the tax bill.

- 2.11 Consider the possibility of a state legislative amendment that expressly incorporates not just relocation assistance payments but also other lien enforcement charges in the authorization for adding such payments to the tax bill for the rental property.³⁸

3. Tax Foreclosure

The collection of property taxes resides at the county, rather than the municipal, level. Property taxes are assessed against both real and personal property. Property tax liens have senior priority status.³⁹ Delinquent property taxes are not subject to enforcement until the taxes have been delinquent for a period of three years.⁴⁰ The property tax enforcement system is essentially a judicial proceeding, with a judgment as to the amount due, and authorization for a sale at public auction.⁴¹

Preliminary information suggests that Spokane County has one of the more efficient and effective systems of real property tax collection and enforcement in the entire country. With over 235,000 parcels in Spokane County, taxes are paid in full by the October 31st date on roughly 93 to 95% of the parcels each year. Partially because the County has in place a robust partial payment program for delinquent property taxpayers, the average number of Certificates of Delinquency is only 135 parcels for each of the four years 2017 through 2020, or only one-half of one percent of the total tax digest in Spokane County. The average number of parcels given

³⁶ RCW §59.18.440.

³⁷ RCW §35.80.030(1)(h).

³⁸ This would involve an amendment either to RCW §35.80.030(1)(h), or RCW §59.18.440.

³⁹ RCW §84.60.010.

⁴⁰ RCW §84.64.050(1).

⁴¹ RCW 84.64.080.

notice of a tax sale during each of these four years is only 26 parcels. The average number of parcels sold to a third party for an amount equal to or higher than the Minimum Bid is 17 parcels. The average number of parcels over this four-year period which default to the County as “Tax Title” parcels is only 9 parcels.

- 3.1 Consider undertaking an analysis of the properties which are administratively removed from the delinquent tax list by virtue of a special program, such as a partial payment program, to determine the extent to which such removal also involves properties which are subject to enforcement actions pursuant to the Chronic Nuisance Ordinance or the Existing Building Ordinance. Such an analysis might reflect the extent of inventory which is both tax delinquent and in violation of provisions of the Spokane Municipal Code but yet are not being taken through the tax enforcement process.

The Minimum Bid at the public auction is “the total amount of amount of taxes, interests, and costs.”⁴² The Minimum Bid also includes all taxes, interest, and costs which are delinquent at the time of the sale, regardless of whether they are included in the judgement.⁴³

The property is sold at the public auction to the highest bidder for cash, and in the event that no bid is tendered at or above the Minimum Bid, the County acquires the property for the Minimum Bid.⁴⁴ A separate state statute describes the County’s authority as to its tax title properties,⁴⁵ and it includes a provision for the County to undertake a Quiet Title Action.⁴⁶

In light of the relative efficiency and effectiveness of the County in the collection of real property taxes, whether due to its internal programs of working with property owners or the relative strength of the real estate market in Spokane, or both, the focus should be placed on maximizing the ordinance enforcement costs, fees, penalties, interest, and the conversation of these amounts into liens which are fully transmitted by the City of Spokane to Spokane County for enforcement and collection.

In order to achieve maximum utility of ordinance enforcement activities, the financial charges of the Chronic Nuisance Ordinance Program and the Existing Building Ordinance Program should be coordinated even if not fully integrated.

- 3.2 Consider the creation of a single uniform procedure created for both the Chronic Nuisance Ordinance Program and the Existing Building Ordinance Program to transmit regularly and automatically the maximum amounts of aggregate

⁴² RCW §84.64.080(3) and (4).

⁴³ RCW §84.64.200(2).

⁴⁴ RCW §84.64.200.

⁴⁵ RCW §36.35.010.

⁴⁶ RCW §36.35.160.

enforcement costs, as liens, to the City Treasurer for monthly transmittal to the County Treasurer.

As part of the process of creating a procedure which achieves maximum recovery of all enforcement costs it may be necessary to attempt to reconcile the pertinent provisions of the SMC and the Washington statutes.⁴⁷

- 3.3 Consider the possibility of amending the Spokane Municipal Code provisions to achieve maximum clarity and coordination.
- 3.4 To the extent that such clarity and coordination cannot be achieved solely by amendments to the City's ordinances, consider the possibility of clarifying amendments to the Washington statutes.

Though the total amount of the inventory which is taken to a tax auction each year is a very small number of properties, specific attention should be given to such properties. The first step is to make sure that the Minimum Bid always includes the maximum amount of lien enforcement costs of the City of Spokane. If the property is redeemed prior to auction or sold at the auction to a third party bidder, the City of Spokane fully recovers in cash the total amount of such costs.

When the property is sold to a third party at a tax auction, all existing public liens are terminated. A tax sale does not change the property conditions; it only eliminates delinquent taxes and outstanding ordinance liens.

- 3.5 Consider instituting a policy that all tax auctions at which the property is purchased by a third party, the property is immediately reinspected to place the new owner on notice of violations and potential new liens.
- 3.6 Consider the possibility of seeking an amendment to Washington statutes to reduce the 3-year period for tax enforcement to just 1 year for those properties which are vacant, unoccupied, and subject to outstanding ordinance enforcement liens.

If there is no third party bid equal to or greater than the Minimum Bid, the property is transferred to the County as a "tax title" property. The City of Spokane should carefully monitor such auctions in order to determine whether the specific properties could or should be acquired by the City of Spokane to be used for public purposes such as affordable housing. State law expressly permits a city to acquire property at a tax auction in order to protect assessment liens,⁴⁸ though the interplay of such acquisition with the Minimum Bid at the auction is not clear.

⁴⁷ Compare, for example, the provisions of SMC 17F.070.500, with the provisions of RCW 35.80.030(1)(h) with RCW 84.64.060.

⁴⁸ RCW §35.49.130.

- 3.7 Consider also the possibility of amending state law to provide that the City of Spokane could have the option, as to properties located in city limits of Spokane, of being a Minimum Bid transferee instead of the County.

4. Receiverships

Washington statutes include a general receivership provision.⁴⁹ Though there is no explicit reference to receiverships for ordinance enforcement proceedings in this state statute,⁵⁰ a municipal receivership ordinance presumably falls within the scope of a “state agency” seeking the appointment of a receiver and “the court determines that the appointment of a receiver is reasonably necessary.”⁵¹

The City of Spokane has functionally two different receivership procedures, or programs, one for Chronic Nuisances,⁵² and a new one recently adopted for Existing Building Ordinance Enforcement.⁵³ Both City ordinances contemplate the initiation of receivership actions under the state statute.

State law, and the authorizing City ordinances, permit a receiver’s senior lien for “the reasonable, necessary expenses of preserving, protecting, or disposing of the property”,⁵⁴ and all sales by a receiver are free and clear of all liens and encumbrances.⁵⁵ At a receiver’s auction there is no statutory Minimum Bid. Presumably, though it is not clear, the receiver may take into consideration the full amount of the receiver’s lien as well as senior property tax liens and ordinance enforcement liens. If there is no public bid equal to or exceeding the amount of such liens, the property is sold at the public action to the highest bidder.

As receiver’s auctions are not mandatory, but permissive, the prevailing practice in the City of Spokane is to “auction” such properties by advertising their availability on various real estate marketing sites (such as MLS) and then transferring the properties through negotiated sales. Though not required by the statute or the ordinance because of the absence of a Minimum Bid requirement, it appears that the practice is to seek to recover the full amount of delinquent taxes and enforcement costs as part of the sales price.

It appears that receivership proceedings and receivership auctions are being used by the City of Spokane as an alternative to incurring significant demolition expenses or acquiring the property through tax or lien enforcement. A consequence of this approach is that the underlying conditions of the property may not be remediated, and potential real estate inventory that could

⁴⁹ RCW §7.60.

⁵⁰ Such a possible cross-reference would be to RCW Title 35.

⁵¹ RCW §7.60.025.

⁵² SMC 10.08A.050(C)(4).

⁵³ SMC 17F.070.470(B)(4) and 490(D).

⁵⁴ RCW §7.60.230.

⁵⁵ RCW §7.60.260.

be acquired by the City for affordable housing or other purposes is being transferred to private investors.

There are two overarching policy issues presented by this approach to a compulsory disposition of properties that are, presumably, VAD properties. The first is the price point for the transfer of the property. The second is the condition of the property.

Setting a potential price point at receiver's sales as the amount necessary to recover delinquent taxes and enforcement costs can result in making the property functionally unavailable to achieve other public priorities such as affordable housing. In other jurisdictions across the country, property which is encumbered by public liens (taxes, ordinance enforcement) is a primary source of inventory acquired by local government and then conveyed to nonprofit entities at little or no cost to maximize the goals of affordable housing. The price point at a negotiated sale can also underestimate the total amount of financial burdens being placed on the community as a result of the VAD property conditions. If the aggregate costs of demolition plus delinquent taxes exceed the post-demolition fair market value of the property, any potential third party purchaser will insist on some form of direct or indirect subsidy in order to complete the transaction.

- 4.1 Consider the possibility of using the receivership powers to maximize the availability of inventory to achieve a specific public purpose, such as affordable housing, by increasing the minimum price point at a Receiver's Sale to reflect all costs imposed on the City as well as all remediation costs.

In the event that the City of Spokane elects to continue to use the receivership program to transfer property to a private third party purchaser, the additional issue remains of the substandard condition of the property at the time of the sale. By itself, the sale of the property to a new private owner will not necessarily result in achieving a specific public goal (such as affordable housing), or even the remediation of the underlying property conditions.

When land banks across the country acquire property and are either unable to remediate existing property conditions or seek to convey the property to a new owner for a specific public goal, it is critical that assurances are incorporated at the real estate closing for performance. The most common methods of enforcing such expectations include development agreements, mortgage financing, and restrictive covenants. In all instances the land bank, or the local government itself, is in a direct contractual relationship by which to enforce the commitments as against the purchaser or transferee of the property.

- 4.2 Consider the importance of incorporating in every receiver's sale one or more mechanisms for enforcement of expectations to remediate existing property conditions within a specific period of time and to reuse or redevelop the property in accordance with the public priorities of the City of Spokane.

5. Mortgage Registry

The Mortgage Registry Program was created by the City of Spokane in 2016 and is administered by the department which administers the Existing Building Ordinance.⁵⁶ This program requires the registration by the mortgagee of any property for which a notice of mortgage default has been issued, or foreclosure proceedings commenced. There is an annual registration fee of \$350. Property appears to remain “Foreclosure Property” even when it is acquired by a mortgagee at the foreclosure sale.⁵⁷ The primary thrust of the Mortgage Registry Program, other than perhaps creating a revenue stream for the City, is that an express affirmative obligation is placed upon the mortgagee to inspect the property monthly and maintain and secure the property.

- 5.1 Consider an administrative policy which provides that placement of a property on the Mortgage Registry triggers an internal review of enforcement actions in the Chronic Nuisance Ordinance Program and the Existing Building Ordinance Program, and possibly a reinspection of the property.
- 5.2 Evaluate the City of Spokane funding generated from the Mortgage Registry Program and whether it is, or should be, dedicated to the various form of enforcement under the Chronic Nuisance Ordinance Program or the Existing Building Ordinance Program.

While there is interest in a land bank, this section hopefully makes a compelling case to understand how the existing laws and practices related to ordinance enforcement and tax enforcement are creating barriers to unlocking a pipeline of potential VAD properties that could be repurposed for affordable housing and other community priorities. A focus on prioritizing actions and efforts to address these barriers and deficiencies could then make an in-depth conversation about the value of a land bank timelier and more useful.

For example, implementing reforms that lead to a more coordinated effort in maximizing the placement of enforcement liens on the property tax bill could change the volume of properties which are taken to a tax auction. With higher Minimum Bids, the number of properties which fail to sell for Minimum Bid could increase, giving the County or City direct access to a larger inventory of VAD properties. Also, a closer examination of the City's use of receivership sales could open up new opportunities to ensure a subset of VAD properties are transformed to affordable housing.

The many recommendations outlined in this section are worthy of robust discussion among local stakeholders and should not be seen as an alternative to a land bank, but critical foundational steps that can help set the stage for a land bank if needed.

⁵⁶ SMC 17F.070.520.

⁵⁷ SMC 17F.070.520.

Conclusion

Community Progress is pleased to present this preliminary analysis to SNAP, on behalf of the Invest Health Spokane team, to explore land banking and other tools to address the inventory of VAD properties and create a pipeline of affordable housing in Spokane. The City of Spokane is in a prime position to explore reforms to their enforcement systems for both the Chronic Building Ordinance and Existing Building Ordinance. Through increased collaboration and coordination among ordinance enforcement and delinquent property tax enforcement, there may be additional funding and a pipeline of VAD property that can go to a land bank or other new, responsible party for affordable housing. Prioritizing these reforms could set the foundation for future discussions regarding a land bank.

The Invest Health Spokane team plays a critical role in building the bridge between local government, the nonprofit and healthcare sectors, and residents who are most impacted by VAD properties. Given the requisite legal powers, political and community support, capacity, and funding needed for a land bank to be most effective in addressing VAD properties, local stakeholders in Spokane should continue careful exploration of the merits of a land bank versus maximizing other existing tools available in Spokane.

Appendix A: List of Stakeholders

Julie Honekamp	Chief Executive Officer	Spokane Neighborhood Action Partners
Cameryn Flynn	Projects and Grant Manager	Spokane Neighborhood Action Partners
Breean Beggs	President	Spokane City Council
Melissa Morrison	Manager of Housing and Homelessness Initiatives	Spokane City Council
Bryan McClatchey	Director of Policy and Government Relations	Spokane City Council
Cupid Alexander	Former Director of Neighborhoods, Housing, and Human Services	City of Spokane
Kris Becker	Interim Director, Community and Economic Development	City of Spokane
Jacque West	Operations Manager - Development Services Center, Code Enforcement and Parking Services	City of Spokane
Luis Garcia	Enforcement Supervisor, Neighborhood and Code Enforcement Program	City of Spokane
Jason Ruffing	Code Enforcement	City of Spokane
Matt Folsom	Assistant City Attorney	City of Spokane
Tim Szambelan	Assistant City Attorney	City of Spokane
Vicky Dalton	Auditor	Spokane County
Deb Firkins	Administration Engineer	Spokane County
Debbie Gehret	Tax Enforcement Supervisor	Spokane County
Christa Rice	Senior Analyst	Spokane County
Dawn Kinder	Vice President, Stabilization Services	Catholic Charities of Eastern Washington
Kelly Keenan	Director, Healthcare Integration	Catholic Charities of Eastern Washington