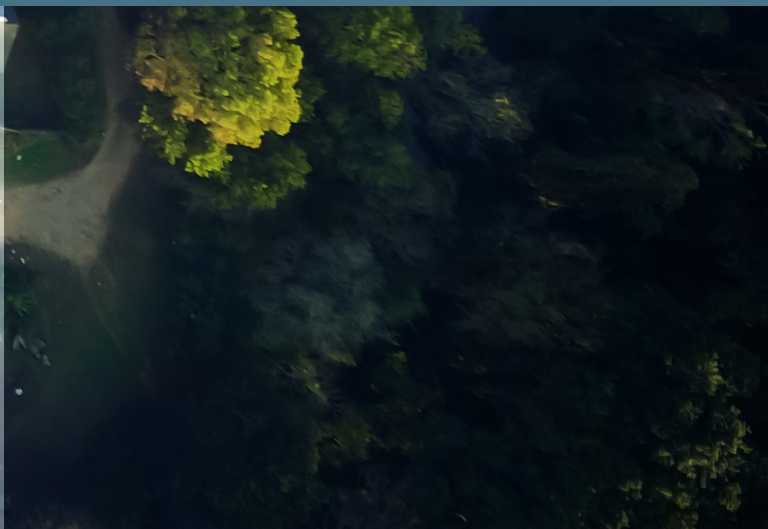


Tackling Vacancy and Abandonment: Strategies and Impacts after the Great Recession



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Ohio Land Banking

2009–2021:

From Legislation to Operation

Gus Frangos

Introduction

At the height of the foreclosure crisis post-2008, a group of dedicated elected officials, community development practitioners, and lawyers, including me, headed by then-Cuyahoga County, Ohio, treasurer James Rokakis came together to try to identify and craft a strategy to respond to the hemorrhaging real estate market.¹ While the crisis was truly a nationwide catastrophe, the neighborhood in Cuyahoga County commonly known as Slavic Village was widely considered the epicenter of the national foreclosure crisis. This once-thriving middle-class neighborhood with much history, shops, solid housing stock, and cultural treasures transitioned almost overnight into vacant and abandoned streets and retail strips. As bad as it was, no one had any idea at that moment just how bad. To the credit of the local elected leadership of Slavic Village, that community has largely recovered.

Although Ohio's comprehensive county land bank statute passed in the Ohio General Assembly in 2009, it is helpful contextually to look back briefly to the early 2000s. At the time, Rokakis, in his role as treasurer of a large urban county, was witness to the impending problem. Tax collection was noticeably decreasing. Tax and mortgage foreclosures were increasing throughout the entire county. And when a mortgage foreclosure occurs, typically the first thing an owner stops paying is the real estate taxes. With the benefit of hindsight, these were the symptoms of a very unstable real estate market.

While the world could not predict the magnitude of what was brewing, local officials, community development corporations, and mayors were seeing these destabilizing trends manifest in their communities. More and more foreclosures were leading to more and more vacant and abandoned properties in neighborhoods

throughout the county, particularly in lower-income neighborhoods. Municipal leaders charged with keeping their neighborhoods and the housing stock stable had to step up their code enforcement activities.

However, it can prove impossible to enforce actions on tax-delinquent owners who are insolvent, out of state, or deceased, or who cannot be identified. As a last resort, leaders can demand that these properties be expeditiously tax foreclosed so that title can be cleansed of old liens, phantom tax receivables, and clouded titles. Only in this way, it was thought, would it be possible to sell and repurpose these properties at sheriff sales to responsible buyers or to transfer the properties to municipal land banks.

Ohio's Traditional Land Bank Law

In the 1970s, Ohio had passed what can be viewed as traditional land bank legislation, which authorized municipalities, counties, and townships to create "land

banks.”² A political subdivision must simply pass an ordinance to create a land bank, at least on paper. These land banks are not entities as such. Rather, the legislation authorized political subdivisions to exercise certain powers over tax-foreclosed vacant and abandoned properties. They are an office or bureau within the creating political subdivision typically administered by a community development, economic development, or planning department.

Although counties and townships are authorized to create these traditional land banks within government, municipalities make up the overwhelming majority of these land banks throughout Ohio. As one municipal function among many, these land banks compete for funding along with police, fire, recreation, and health. Though not a government entity or body politic, the original Ohio land bank laws were designed to: 1) allow municipal land banks to acquire properties through tax foreclosure at no cost after being exposed to sale without bidders and 2) to hold these properties real estate tax exempt until the land could someday be repurposed.

In large urban areas with declining populations, making these properties productive in weak markets is easier said than done. As a result, many of these lots remain in municipal land banks for many years. Moreover, the government land banks’ ability to transact these properties is much more regulated and less flexible when it comes to property disposition compared, for example, to private-entity transactions.

Government ownership comes with traditional rules on conveyance at fair market value, legislative or administrative approvals, board of control authorization, and advertising, for example. Further, these municipal land banks have stringent reporting requirements to overlaying taxing districts,³ consents from the overlaying taxing districts,⁴ advisory panels,⁵ and requirements to auction the land every 15 years.⁶

As a practical matter, these land banks are less inclined to hold vacant and abandoned structures because of the potential for open-ended liability exposure, maintenance requirements, and costs that cities often cannot afford, especially when the volume of such properties is great. Municipalities typically will take these properties only when there is an identified end user.

Ohio Tax Foreclosure Reform: Precursor to Ohio’s County Land Banks

Before Ohio’s new county land banks were even conceived, the main goal in 2004 through 2006 was to respond to local leaders’ demand for speedier tax foreclosure of long tax-delinquent vacant and abandoned lands.

At the time, a tax foreclosure case took anywhere from two to four years to adjudicate. During the pendency of these long tax-foreclosure proceedings, properties that perhaps could be renovated would further deteriorate, catch fire, be vandalized, or be traded to other unwholesome speculators or flippers, making the property no longer suitable for rehabilitation.

Up to this point, in Ohio, tax foreclosure occurred exclusively in the judiciary sector. Civil tax foreclosures filed in the common pleas courts are procedurally subject to all the Ohio Rules of Civil Procedure just as is any other civil case, whether personal injury, contract, labor, or other dispute. However, because a tax foreclosure is statutory in nature and realistically only involves three primary questions—Is there tax due? Was it paid? Are all relevant parties of record served with process?—the Ohio Civil Rules of Procedure posed a structural impediment to expeditious tax foreclosure of vacant and abandoned properties.

We thought that if we could expedite tax foreclosures, this would go a long way toward getting toxic titles cleansed and back into tax-producing status. This led to the crafting of legislation creating expedited administrative tax foreclosures specifically for vacant and abandoned properties.

In 2006, the Ohio General Assembly passed this legislation. Known as HB 294,⁷ it authorized tax foreclosures to occur administratively in county boards of revision, which were preexisting boards⁸ that hear real estate tax valuation appeals. Except for due process requirements, which require notice and opportunity to be heard, the civil rules do not apply to board of revision proceedings. Once passed, tax foreclosures were adjudicated through the new administrative forum in as little as four months after service of process was perfected on the delinquent owner and lien holders of record. And, these properties were being sold at sheriff’s sales to responsible rehabbers (in most cases) or to municipal land banks, which would at least keep and manage the unsold vacant lots until a future use could be identified.⁹ Little did we know how crucial this reform would become in 2008.

Everything seemed to work as planned—until 2008. For perspective, the number of mortgage foreclosures in Cuyahoga County went from 5,900 in 2000 to almost 7,000 in 2001. This number rose to 8,700 in 2003, 9,700 in 2004, 13,943 in 2006, and 14,946 in 2007. The trend continued for the next several years.

Although the rate of foreclosure in Cuyahoga County had declined as of 2020, much remedial work remains unfinished. Indeed, up to January 2020, the Cuyahoga

Land Bank was still receiving approximately 100 vacant and abandoned parcels per month into its inventory through the HB 294 tax foreclosure law.

Next-Generation Ohio Land Banks

When the foreclosure crisis finally led to the collapse of the real estate market, vacant and abandoned properties were being foreclosed through the new administrative tax foreclosure process like a fire hose. As a result, in 2008, Rokakis tasked our group with brainstorming how our community would respond to the crisis of a declining tax base resulting from blighted vacant and abandoned properties. We concluded that we needed a responsible repository to receive these properties, triage them, provide a modicum of maintenance, and ultimately dispose or demolish these properties. This proved a tall task, particularly because such a new entity would require statewide legislation. Three main concepts were needed to make our efforts at land banking meaningful: first, identifying the responsible repository; second, gaining access to the properties; and third, identifying the funds to initiate programs, retain professional staff, and ultimately dispose of these properties.

Three Components to Ohio's New Land Bank Legislation

It is often said that a land bank without funding is like a car without gasoline. I prefer the following hospital metaphor. In this metaphor, a land bank is the hospital, the abandoned properties are the patients, and the medical care the "hospital" provides to the "patients" comes in the form of treating the problems that come with these vacant and abandoned properties.

A special land bank entity outside of government, designed to transact nimbly and hold property real estate tax exempt, is the "hospital" where the properties would be triaged. Looking back after 10 years of operation and having demolished, rehabbed, and transacted thousands of properties, creating another layer of government or a separate authority would have stifled the transactional capabilities of a separate board-governed nonprofit. Of course, such an entity would need to take with it a number of governmental capabilities, the most important of which is to receive tax-foreclosed properties expeditiously at little or no cost and hold them real estate tax exempt until transacted with end-users.

The delinquent vacant and abandoned properties in essence are the "patients" that need to get to the hospital for medical care. Indeed, if you cannot get access to the problem (that is, vacant and abandoned properties) then you cannot treat it. Expeditious tax foreclosure is the needed reform that brings the problem into the land bank so that it can be treated.

Finally, medicine and medical care are needed to treat any patient. This costs money. Hence, reliable and recurring funding pays for the medicine that treats the abandoned-property problem by supporting professional staff, predictable programming, policies, property maintenance, demolition, and rehabilitation.

Legislatively, these are the three components of comprehensive land banking policy that the Ohio General Assembly embraced. In a very direct sense, these components filtered down to the very transactions and operations of the Cuyahoga Land Bank.

Component 1: The Entity

In 2009, Ohio's new supercharged land bank statute (SB 353)¹⁰ contained these three essential features. To the credit of the Ohio General Assembly and the support of statewide auditors, prosecutors, and treasurers' associations, the legislation passed with minimal change. While the legislation required modification of hundreds of sections of the Ohio Revised Code, the highlight of the legislation was the enhancement to Ohio's traditional land banks. With the passage of SB 353, traditional land banking could now be undertaken through a new type of countywide "community improvement corporation."¹¹

Community improvement corporations are created by a political subdivision to advance a particular public purpose or project. While the original traditional land bank statute remains applicable to existing political subdivisions, the new county land banks can be operated through a new public-purposed, private nonprofit corporation. Prior to the passage of SB 353, community improvement corporations traditionally applied only to economic development activities and projects, and industrial development activities of the creating political subdivision. Chapter 1724 of the Ohio Revised Code was amended to provide for this new kind of community improvement corporation, known as a "county land reutilization corporation" (county land bank). In addition to traditional land bank powers, this new entity possesses enormous transactional capability virtually akin to private corporations, so long as the corporation operates within its government-purposed mission.¹²

Various Ohio Attorney General Opinions and a few court cases¹³ describe the nature of these entities. These authorities hold that community improvement corporations are private in the sense that their responsibilities and liabilities may not legally be visited upon the creating political subdivision; they are private nonprofit corporations and independently governed by their own boards. Yet, these entities retain certain public features—namely, they are given a public purpose by the creating political subdivision (in this case land banking);

they are subject to open records and open meeting laws; and their governance must include representation from the political subdivision that incorporated the entity.

Component 2: Tax Foreclosure Reform

Tax foreclosure reform is very difficult, particularly in states that employ long-entrenched practices, especially tax lien sales, as a method of tax collection enforcement. If all three of the aforementioned components to comprehensive land banking legislation were not possible, tax foreclosure reform would be the most important reform to start with. Perhaps other colleagues would disagree. Funding is paramount, but having expedited access to the problem properties through tax foreclosure is equally crucial. Most jurisdictions throughout the country are committed to tax lien sales as the first effort at tax collection enforcement.

When people speak of “tax foreclosure” in these jurisdictions, they often use that term interchangeably with the sale of tax lien certificates. The sale of tax lien certificates is just that—it is the sale of a certificate. It is not true tax foreclosure, where a delinquent owner and interested parties of record are named in a lawsuit, similar to a mortgage foreclosure that results in the fee simple sale of the property to a new owner. Without true tax foreclosure, which completely cleanses the title of taxes and all subordinate liens in one up-front consolidated proceeding, properties will eventually make it through “tax lien sale” foreclosure, but at a much slower pace that will often require yet another proceeding in the nature of a quiet title action.

Perhaps the biggest challenge in crafting SB 353 was integrating HB 294 tax foreclosure practice onto the SB 353 land banking provisions in a way that county government would find to be a simple “overlay” on existing tax foreclosure processes. Additional statutes throughout the land banking statute also had to be harmonized, but HB 294, now codified in Ohio Revised Code 323.65 to 323.79, remains a milestone in tax foreclosure practice. Two main features are the expedited extinguishment of the redemption right and the avoidance, in select cases, of sheriff’s sales by allowing the redemption right no longer to be tied to a “confirmed” sheriff sale; but extinguished as a function of time after which a tax foreclosed property can be transferred directly to a county land bank. HB 294 provided that the redemption right could be extinguished 45 days after a journalized decree of foreclosure (modified to 28 days in 2014 pursuant to SB 172) or transferred free and clear to a county land bank if the tax impositions exceeded the auditor’s presumed tax valuation.¹⁴

Component 3: Funding

With tax foreclosure reform and a transactional, public-purposed private entity in place, a reliable and

recurrent funding source needed to be identified. Just how did Ohio’s new land bank legislation deal with this question?

In 2008, when SB 353 was being drafted, Rokakis emphasized that unless funding could be identified, the effort might not be worth the trouble. While that can be debated, it was a reality, at that time, that neither the federal, state nor county governments were in a position to provide a recurring, reliable funding stream to land banks (especially since they were a new creation). To emphasize the point, leaders in the Ohio General Assembly, while motivated to pass a bill in the midst of the foreclosure crisis, were clear that they would entertain only a “revenue-neutral” bill.

Our team consulted with then-Genesee County, Michigan, treasurer Dan Kildee,¹⁵ who encouraged us to study Ohio’s version of tax lien sales. He was not a big fan. Attorney and Professor Frank Alexander at Emory Law School, the preeminent authority on land banking and a cofounder of the Center for Community Progress, has written much about the negative side effects of tax lien sales as a method of tax enforcement.¹⁶ Ohio employs both true tax foreclosure and tax lien sales. Because of the success of Ohio land banking, tax lien sales are not used as much in Cuyahoga County.

According to Kildee, the tax lien sale process essentially socialized the loss to the taxpayer in the form of vacant and abandoned properties, while privatizing all the profits from the sale of tax liens on properties that were in higher-value markets in the form of high interest rates, penalties, and fees. Ohio tax lien certificate buyers were purchasing the tax certificates at or around par value—the amount of the tax delinquency. In exchange, the law allowed them to charge 18 percent interest on the tax delinquency inclusive of all the accrued penalties and interest. If the original owner or any buyer wanted to buy the certificate or redeem the property (either before or after it had been foreclosed by the certificate holder), it would have to pay this exorbitant interest along with all costs assessed by the tax lien certificate holder, attorney fees, and additional compounded interest. If this penalty and interest could somehow be recaptured and redirected back into the community, without encroaching onto the budgeted tax corpus of the various taxing districts, this could serve as a source of revenue for land banks.

We explored scenarios where the rate of delinquent tax collection could be forecasted, whereby advance tax payments to the taxing districts in these amounts could be made through privately financed tax anticipation notes on the county treasury’s rolling inactive depos-

its. By paying the taxing districts before receiving the forecasted delinquent collection, perhaps the penalty and interest on these forecasted receipts, once actually received, could be used to fund land banks. These options are included in SB 353. However, these particular options require a healthy amount of forecasting, and therefore carry built-in uncertainties. As a result, we focused on a tax collection fund called DTAC (delinquent tax assessment collection fund).¹⁷

What Is DTAC?

In Ohio, when any delinquent tax is collected (whether residential, commercial, vacant, or occupied), it is subject to a 10 percent penalty. After the annual settlement of the county's taxes in August or September, interest on the principal tax owed is also assessed. By way of simple illustration, if a \$1,000 tax bill is paid late, a 10 percent penalty is added, making the total amount due \$1,100 plus interest.

Ohio law says that from all delinquent collections, 5 percent of this collected amount is segregated from the total collection and split between the county treasurer and the county prosecutor to pay for the costs associated with tax collection and enforcement. This would include direct tax collection efforts, publication of delinquencies, administration of payment plans, and tax foreclosure itself, which includes court filing fees, title examination costs, and service by publication, among other expenses.

Because *collected* delinquent taxes also include the 10 percent penalty on the primary tax owed, we felt that the 5 percent DTAC money carved out to support the prosecutors and treasurers could be increased by another 5 percent to support the operations of county land banks. And, inasmuch as collected delinquent real estate taxes contained the 10 percent penalty over and above the tax corpus, it was felt that this would not encroach upon the tax corpus budgeted by the various taxing districts, such as cities, schools, and libraries.¹⁸

Shortly after passage of SB 353, this became and remains the universal way SB 353 county land banks are funded in Ohio. With very rare exception, this system has not encroached upon the tax corpus of any of the taxing districts in Cuyahoga County. On the rare occasion that encroachment has occurred, it was nominal and typically due to a large tax valuation appeal or dispute involving a large taxpayer in the particular taxing district.

These enablements are permissive, meaning that a county can decide whether it wishes to use this funding feature for its county land bank. Initially, some outer-ring suburban taxing districts in Cuyahoga County

were reticent to embrace the DTAC funding mechanism, as were select legislators in the General Assembly. Once SB 353 eventually passed, the reality that the foreclosure crisis, vacancy, and abandonment were beginning to encroach upon their communities was a major factor in getting the Cuyahoga County taxing districts to accept the idea of foregoing some of the penalty that they would otherwise receive on collected delinquent taxes. In other words, this was no longer an urban issue alone; it was also an inner-ring suburban and exurban problem. High levels of vacancy were spreading and having a negative effect on the tax base. A lesson well-learned was that when advocating for a policy change to skeptical stakeholders, it is important to show them clearly how the problem and the policy directly affect them.

Other states throughout the country might have a harder time adopting the Ohio funding model because penalties and interest are often treated as some form of miscellaneous income and factored into subsequent budgeting. Reform allowing for redirection of penalty and interest would be needed in these states. An alternative is a modest downward readjustment of the charges that tax lien certificates are allowed to receive for redeemed properties, while keeping the charges themselves the same but reallocating that downward adjustment to land bank operations.

Operational Milestones

With the legislative tools in place, the Cuyahoga Land Bank opened its doors on June 1, 2009. The Cuyahoga County Council approved the DTAC funding and capped it at \$7 million. That level of funding and transactional capacity afforded the opportunity to engage in large initiatives. At the time, the Congress and the U.S. president had signed into law the Neighborhood Stabilization Program 2, also known as NSP2, to be administered by the Department of Housing and Urban Development (HUD).¹⁹ The Cuyahoga Land Bank, barely eight months old, was tapped to lead a consortium consisting of the City of Cleveland, Cuyahoga County Metropolitan Housing Authority, and Cuyahoga County in applying for an NSP2 grant for housing rehabilitation, demolition, and ancillary policy initiatives. The Cuyahoga Land Bank was awarded \$43 million, which required a quick ramp-up of staff, programs, forms, and HUD regulatory expertise.

Several years later, then-Ohio attorney general Michael DeWine, now Ohio's governor, awarded to Ohio's county land banks approximately \$100 million, of which Cuyahoga County received nearly \$12 million. Cuyahoga County then awarded \$50 million to the Cuyahoga Land Bank, specifically for demolition. Finally, nearly \$70 million was authorized to the Cuyahoga Land Bank from

the federal government's agreement to expand the use of Hardest Hit Funds²⁰ for demolition. The Ohio Housing Finance Agency administered this money. Also in the first year of operations, the Cuyahoga Land Bank signed a pooling agreement with HUD to receive its low-value assets under \$25,000 as an alternative to HUD selling these properties for pennies on the dollar, which could further destabilize comparable values. And finally, the Cuyahoga Land Bank signed a pooling agreement with the Federal National Mortgage Association (FNMA, also known as Fannie Mae) whereby FNMA would transfer its low-value assets to the Cuyahoga Land Bank and provide funding for those transfers that required demolition.

In evaluating why these large-scale engagements were implemented at such an early stage, a high-ranking official at FNMA explained that FNMA was concerned about the moral hazard of making such arrangements with cities and nonprofits that were not fully focused on the problem or were not sufficiently funded. He explained that FNMA desired these arrangements but wanted to avoid the criticism that might come with large-scale property transfers to agencies that could not accommodate the associated costs nor professional management and disposition of the properties. It was felt the Ohio's legislative model and the reliable funding (\$7 million in the case of the Cuyahoga Land Bank) was sufficient to address the moral hazard. To this day, the Cuyahoga Land Bank maintains its pooling arrangement with HUD but on a much smaller scale.

The banking industry also took notice of the Cuyahoga Land Bank. Pooling arrangements with Citibank, Wells Fargo, Bank of America, JP Morgan Chase and others donated low-value assets and paid, in most cases, for those transfers requiring demolition. Within two years of operations, the Cuyahoga Land Bank has consistently received an average of 100 properties per month into its inventory, through January 2020. In the early days, transfers came from FNMA, HUD, banks, and tax foreclosure. By 2020, most transfers came from tax foreclosure.

Triaging the Properties

While many properties required demolition, approximately 35 to 40 percent were suitable for rehabilitation. When evaluating a property coming into the Cuyahoga Land Bank's inventory, the first question is whether it can be rehabbed. Because of such a high volume of properties that could be rehabbed, the dilemma was how to solicit responsible professionals to get these properties rehabbed. This dilemma resulted in the creation of the Deed in Escrow Program (DEP), which remains a robust program today and produces significant income.

The DEP involves an immediate assessment of a property upon acquisition to determine whether it can be rehabbed. The assessment is done by both professional housing managers on staff and independent contractors. If the professional concludes that the property can be renovated, he or she prepares a specification rehab specification of every item within the home that needs repair using a code compliant standard. In marketing the homes, this specification is included with every for-sale property posting so that buyers are aware they cannot acquire the property without committing to renovate it within 120 days. Until the renovation is complete, the deed to the property is held in escrow to assure completion. The Cuyahoga Land Bank has transacted nearly 2,000 properties in this fashion. As long as the property is renovated according to the specification, the property is conveyed for a highly incentivized price considering market conditions and the amount of rehab needed.

Economic Impact

One of the issues we confronted throughout the entire process of getting SB 353 passed was the question of what real impact these new land banks could have on urban and rural communities throughout the state. We provided extensive data showing the depth and breadth of the problem and the risk of inaction. We highlighted examples of higher-capacity land banks in Michigan, particularly Genesee County, to show creative tools other states were using. Ultimately, legislators were being urged to act in response to the crisis, and because no other alternatives had been offered to that point, SB 353 seemed worth the try. While SB 353 was designed to apply to all counties in Ohio, when it ultimately passed, it was applicable only to Cuyahoga County. The General Assembly concluded that because of the expansive capabilities and authorities given to these new "land banks on steroids," it would be good to first allow a pilot land bank, which was the Cuyahoga Land Bank.

Ultimately, the functionality and benefits of SB 353 were apparent almost immediately. Within a few months, the Cuyahoga Land Bank received its initial DTAC funding and signed the aforesaid groundbreaking pooling agreements with HUD and FNMA to receive their low-value assets for rehabilitation or demolition. Because this particular source of properties often included many rehabbable properties that the Cuyahoga Land Bank was able to curate and sell to responsible rehabbers in the DEP program, the revenue from these sales, at one point, exceeded \$2 million annually. Because of these early successes, within a year, land banking in Ohio was made available to all counties with a population over 60,000. Today, all 88 Ohio counties are eligible to form county land banks. As of this writing, 60 counties have

done so. These land banks have paid many dividends to urban and rural communities alike.

As to the economic impact of each Ohio land bank, each county has its story. An independent study by Dynamo Metrics evaluated the economic impact of the Cuyahoga Land Bank over its 10 years of operations. The study, published and announced in July 2019 at Cleveland State University,²¹ confirmed an economic impact of \$1.43 billion, an enormous return on investment. Other counties in Ohio can report similar results proportionate to their size and funding.

In measuring the Cuyahoga Land Bank's economic impact, the study considered its mission and purpose, which is to acquire blighted properties, return properties to productive use, increase property values, support county goals through collaboration, and improve the quality of life for community residents.²²

The study focused on the following areas and found:

Increased property values and blight reduction

- \$415.3 million in increased home value from nearly 7,000 residential demolitions
- \$320.6 million in increased home value from more than 2,100 programmatic residential renovations

Distressed properties back on the tax rolls

- \$13 million from direct property sales
- \$18.5 million in property tax revenue collected from Cuyahoga Land Bank-influenced properties
- \$302.8 million in direct private investment induced by catalytic Cuyahoga Land Bank activity

Support for the local economy

- \$305.5 million in local economic impact and 2,114 jobs created between 2009 through 2019
- \$57.3 million in local economic impact and 355 jobs created from programmatically incentivized private-sector residential renovation activity

Expenditures: \$178 million (*cost benefit*)

- \$8 in economic impact for every \$1 of Cuyahoga Land Bank expenditure
- 1 job created for every \$72,152 of Cuyahoga Land Bank expenditure

The study does not include additional economic impact associated with: (1) property tax revenue preserved²³ because of the increase in home value that the Cuyahoga Land Bank activities provide; (2) the short- and long-term jobs and associated economic activity provided from the private-sector investment induced

by Cuyahoga Land Bank activity; and (3) the dozens of large-scale economic development projects that would not have occurred absent the ability to assemble large tracts of vacant, abandoned, and delinquent lands with marketable titles. These projects are chronicled in the 10-year economic impact report, and total \$302,077,000.²⁴

The Cuyahoga Land Bank has offered many lessons—most importantly, that there are people and communities to be served through county land banking.

Early Lessons

One early lesson for new land banks is to harness the enthusiasm that comes with opening the doors. The establishment of a land bank in a community typically generates anticipation and excitement. Because county land banks are typically quasigovernmental—or, in the case of the Cuyahoga Land Bank, nonprofit entities but governed by public officials or public-purposed—there is intense scrutiny at many levels.

It is important to start slowly and to address simple things like property insurance upon acquisition, payroll systems, accounting, employee manuals, ethics policies, the processes of receiving and disposing of tax delinquent properties, and holding and maintaining properties. In the early stages of the start-up, if a new land bank stumbles in these areas, it risks being branded as unprofessional from the very start. To be successful, it is important that all of the seemingly simple “start-up” processes are in place, from making sure property acquisition, bidding procedures, and the like are carefully in place, to making sure the telephone and email systems of the organization are user friendly. In an effort to show good results, public officials might wish to rush operations, but the new land bank should focus first on ensuring that all of the fundamental organizational tasks are instituted. In Cuyahoga County, we opened our doors in June 2009, but didn't transact a property until November of that year, so that each anticipated property pipeline was tested and debugged. We also created and strictly adhered to a task grid containing all the general start-up tasks applicable to any start-up and refined to apply to our specific work.

Another lesson learned relates to communicating with elected officials and policymakers, especially those who intersect with the land bank or are new on the scene. It is easy to assume that everyone knows what we know about land banking and that they're as passionate about the benefits of land banking as we are. That, of course, is not always the case. Policymakers and elected officials focus on many other issues. The Cuyahoga Land Bank nearly was stopped before it got started because our

recently elected county executive was unfamiliar with the Cuyahoga Land Bank and assumed it was one of the many routine county government boards and commissions of which he was the sole appointing authority. Of course, Ohio's land bank governance is prescribed by statute. This experience created conflict and emphasized that policymakers and elected officials come and go. It is essential to stay connected to them, provide routine reorientations and briefings, and develop mutually productive and supportive relationships. Happily, the early crisis of governance was averted.

Last but not least, a healthy attention should be given to equitable contracting and vendor relationships from the inception of operations. If this focus is built into the DNA of the organization early, it will become part of the culture and produce equitable results. Although the Cuyahoga Land Bank is not governed by strict contracting set-asides, its large-vendor relationships (demolition, field servicing, and clean outs) since inception have hovered at the 50 percent level between majority and minority business enterprise/female business enterprise contractors. These large vendors also have accounted for 50 percent of actual dollars contracted. One explanation for this good record is the routine and mandatory training that the Cuyahoga Land Bank provides its vendors, where strict quality expectations are communicated. Correspondingly, expectations of reliable and prompt payment to vendors upon work completion provides an incentive to get the job done satisfactorily. Small business enterprises that have to wait up to 90 days to be paid find it very difficult to manage cash flow and maintain payroll and overhead. We have found that strict guidelines of workmanship and professionalism not only provide a better work product, but also let vendors know that if these standards of professionalism are met, they will receive prompt payment and continued access to Cuyahoga Land Bank work so that they can support their families and their employees.

Gus Frangos served as the city councilman for Cleveland's 13th Ward from 1986 to 1993, focusing on community development legislation. From 1993 to 1997, Frangos served as a magistrate judge in the Cleveland municipal court. In 2004, on behalf of the Cuyahoga County treasurer, Frangos crafted legislation to expedite tax foreclosure of vacant and abandoned properties. This legislation came to be known as HB 294, which authorized expedited administrative tax foreclosures of abandoned land. In 2008, he drafted SB 353, which established county land banks and created county land reutilization corporations, entities that possess enhanced capabilities for reclaiming distressed properties. Since 2009, Frangos has served as the president and general counsel of the Cuyahoga Land Bank. His areas of expertise include consti-

tutional, real estate, zoning, administrative, and business transactional law. Frangos graduated with honors from Cleveland-Marshall College of Law in 1982.

Endnotes

¹ <http://cuyahogalandbank.org/aboutUs.php>

² O. Rev. Code Chapter 5722.01 et seq

³ O. Rev. Code 5722.06

⁴ O. Rev. Code 5722.07 and O. Rev. Code 5722.08

⁵ O. Rev. Code 5722.09

⁶ O. Rev. Code 5722.13

⁷ HB 294 archives.legislature.state.oh.us/bills.cfm?ID=126_HB_294; archives.legislature.state.oh.us/BillText126/126_HB_294_ENL__N.pdf

⁸ O. Rev. Code 5715.01 et seq.

⁹ In cases where a foreclosed property is offered for sheriff's sale without a bidder or without a land bank requesting the property, the property then "forfeits" to the State of Ohio and its further disposition is governed pursuant to Chapter 5723 of the Ohio Revised Code.

¹⁰ http://archives.legislature.state.oh.us/BillText127/127_SB_353_EN_N.html

¹¹ As Ohio Revised Code 1724.01 et Seq provides, these are business entity chapters such as for-profit and non-profit corporations, partnerships, limited liability companies, medical corporations, associations, and more.

¹² Ohio Revised Code 1724.02. <https://codes.ohio.gov/ohio-revised-code/section-1724.02>

¹³ 2000 Op. Att'y Gen. No. 2000-37, 1991 Op. Att'y Gen. No. 1991-071, 1979 Op. Att'y Gen. No. 1979-061. See also: Triple Diamond Trucking and Excavating LLC v. Trumbull County Land Reutilization Corp. 2018-Ohio-5193, 36-50, 155 Ohio appeal not allowed sub nom. Triple Diamond Trucking & Excavating v. Trumbull County Land Reutilization Corp., 2018 Ohio 5193 (Ohio Ct. App. 2018). State, ex rel Burton v Greater Portsmouth Growth Corp., 1966 218 N.E. 2d 446, 7 Ohio St.2d 34.

¹⁴ Archives.legislature.state.ohio.us/bills.cfm?ID=130_SB_172; O. Rev. Code 323.71 archives.legislature.state.oh.us/BillText130/130_SB_172_EN_N.pdf

¹⁵ Kildee co-founded and served as the president of the Center for Community Progress. He is now the U.S. Representative for Michigan's Fifth congressional district.

¹⁶ See https://www.wvgazettemail.com/news/tax-lien-sales-can-ignore-charlestons-most-neglected-properties/article_d4814d11-caa8-56a1-8654-52ec1353a5a1.html;
<https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2148&context=ilj>

¹⁷ O. Rev. Code 321.261; O. Rev. Code 321.341

¹⁸ There are 101 taxing districts in Cuyahoga County alone.

¹⁹ https://www.hud.gov/program_offices/comm_planning/nsp

²⁰ <https://home.treasury.gov/data/troubled-assets-relief-program/housing/hhf>

²¹ Cuyahoga Land Bank: 10-year Economic Impact Analysis, June 2019 prepared by Nigel Griswold, Dynamo Metrics.

²² Data used for the study were supplied by the Northeast Ohio Community and Neighborhood Data for Organizing (NEOCANDO). <https://neocando.case.edu/>

²³ Id. at page 7: See: Whitaker and Fitzpatrick, 2015, Land Bank 2.0: An Empirical Evaluation, Federal Reserve Bank of Cleveland.

²⁴ Id. at page 10.

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About the Center for Community Progress

The mission of Center for Community Progress is to foster strong, equitable communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods. Founded in 2010, Community Progress is the leading national, nonprofit resource for urban, suburban, and rural communities seeking to address the full cycle of property revitalization. The organization fulfills its mission by nurturing strong leadership and supporting systemic reforms. Community Progress works to ensure that public, private, and community leaders have the knowledge and capacity to create and sustain change. It also works to ensure that all communities have the policies, tools, and

resources they need to support the effective, equitable reuse of vacant, abandoned, and deteriorated properties.

About the Federal Reserve System

The Federal Reserve System (the Fed) is made up of 12 Reserve Banks that, together with the Board of Governors in Washington, DC, serves as the central bank of the United States. As the US central bank, the Federal Reserve conducts monetary policy, promotes financial stability, provides payment services to financial institutions, supervises banks, and promotes community and economic development.

About the Federal Reserve Bank of Atlanta

The Federal Reserve Bank of Atlanta sits in the Federal Reserve's Sixth District and covers all of Georgia, Florida, and Alabama and portions of Louisiana, Mississippi, and Tennessee. The Atlanta Fed's Community and Economic Development Department supports the Federal Reserve's mandate of stable prices and maximum employment by working to improve the economic mobility and resilience of people and places for a healthy economy. To do this, we conduct research and create data tools to uncover the barriers to and opportunities for improved economic mobility as well as to make the data easily accessible for community and organization planning and decision-making. We engage stakeholders to help organizations and communities understand relevant issues and undertake cross-sector solutions. And we track and elevate issues facing the lower-income resident of the Southeast.

About the Federal Reserve Bank of Cleveland

The Federal Reserve Bank of Cleveland, the Federal Reserve's Fourth District, covers all of Ohio, western Pennsylvania, eastern Kentucky, and the northern panhandle of West Virginia. The Cleveland Fed's community development team promotes the economic resilience and mobility of low- and moderate-income people and communities throughout the Fourth District. We conduct research and engage with stakeholders on issues affecting access to credit, quality jobs, education, small business, and housing with the goal of increasing economic opportunity and helping people and communities thrive.



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