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Establishing a Land Bank in South Bend & St. Joseph County

A Decision-Making Roadmap



Center for
**COMMUNITY
PROGRESS**

Vacant Spaces into Vibrant Places

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About the Center for Community Progress

The Center for Community Progress helps people to transform vacant spaces into vibrant places. Since 2010, their team of experts has provided urban, suburban, and rural communities battling systemic vacancy with the policies, tools, and resources needed to address the full cycle of property revitalization. As the only national nonprofit dedicated to tackling vacant properties, Community Progress drives change by uncovering and disrupting the unjust, racist systems that perpetuate entrenched vacancy and property deterioration. Community Progress has delivered customized, expert guidance to leaders in over 300 communities and provided hundreds of hours of free educational resources as well as leadership programming to help policymakers, practitioners, and community members across the country return properties to productive use. To learn more and get help for your community, visit www.communityprogress.org

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Foreword

To most of the United States, South Bend, Indiana is best known as the home of the Studebaker car, University of Notre Dame, and Mayor Pete Buttigieg (now US Secretary of Transportation). However, this midsized Indiana city is particularly admired among community development practitioners and local government enthusiasts for its distinctive track record in addressing vacant and abandoned properties.

For over a decade, local government and community leaders interested in new community revitalization strategies have tapped into the deep bench of local and national expertise from groups like the Community Development Clinic at the Notre Dame Clinical Law Center and the Center for Community Progress. Working together, these state and local organizations, practitioners, and committed residents are tackling the current and prospective inventory of vacant properties causing the most harm to South Bend.

One of the most notable endeavors of the last decade was the City of South Bend's "1,000 Houses in 1,000 Days" initiative, launched in 2013. The goal was to address, through demolition or repairs, 1,000 abandoned houses that were causing the most harm to neighbors and neighborhoods. At the conclusion of the initiative in 2015, the City had addressed 1,122 dilapidated, vacant homes with roughly 40 percent of them repaired and 60 percent demolished.¹

The impressive scale and success over just two years should be attributed largely to the thoughtful work of the South Bend Vacant and Abandoned Properties Task Force.²

However, there was one unintended consequence of this herculean undertaking: the hundreds of unmaintained, privately and publicly held vacant lots resulting from the demolitions. They dot the neighborhoods of South Bend, concentrated in the southwest and northwest corridors that are also home to the highest concentration of residents of color.

On the surface, a vacant lot may not seem terribly problematic. But when owned by an out-of-town limited liability company (LLC) or an individual who has long since walked away, giving up their responsibilities to maintain their property and pay taxes, these vacant lots become a huge burden to the City. Public taxpayer dollars go towards cutting the grass, removing the trash, and responding to public safety concerns. These properties also harm their neighbors and the neighborhood by bringing down property values and diminishing the hard-earned equity that owners could and should be able to pass down to future generations.

This report focuses on identifying what keeps vacant properties, especially vacant lots, stuck in a cycle of decline—and how a land bank might help. While substandard occupied properties are also a crucial issue, they require a very different approach given the importance of protecting the people living there.

¹ Ted Booker, "What now for South Bend after 1,000 houses in 1000 days?" *South Bend Tribune*, April 13, 2019, <https://www.southbendtribune.com/story/news/local/2019/04/13/what-now-for-south-bend-neighborhoods-after-1000-houses-in-1000-days/117179140/>.

² City of South Bend, *Vacant and Abandoned Properties Task Force Report*, 2013, https://southbendin.gov/wp-content/uploads/2018/05/Code_FinalVATF_Report_2_red.pdf.

In the hundreds of communities that have invited Community Progress to help address their property challenges, one fact is clear: outcomes for the residents most impacted by disinvestment should determine how a community evaluates success. In many communities like South Bend, vacancy, abandonment, and poverty tends to be concentrated in certain communities, particularly communities of color that can trace this decline over decades of discriminatory and racist federal, state, and local housing policies and dysfunctional systems.

We seek to acknowledge, honor, and uplift the residents who are most impacted and challenge all stakeholders to engage these residents in the decision-making and recommendations moving forward. We aim to help the City and the County think through what additional tools, like a land bank, may be needed to address the lingering and prospective inventory of vacant, abandoned, and deteriorated properties that deny too many residents in South Bend the opportunity to live in a secure, healthy, and vibrant neighborhood.

We hope this report serves as a resource for those seeking authentic collaboration, equitable community development, inclusive neighborhoods, and a more resilient South Bend for all.

Executive Summary

In January 2023, the City of South Bend, Indiana (the City) engaged the Center for Community Progress (Community Progress) to assess the feasibility of a land bank and provide a road map of critical decision points. Over the course of eight months, the Community Progress technical assistance team, led by Kim Graziani and Liz Kozub with legal support from Libby Benton, reviewed state and local laws; requested and analyzed parcel data to better understand the scale of vacant, abandoned, and deteriorated (VAD) properties and a land bank's potential inventory; and conducted virtual and in-person sessions with a wide range of public and community stakeholders.³

Throughout this work, we identified the following key takeaways:

1. **Primary Challenge:** Despite worthy efforts by public and community leaders, there remains **an inventory of VAD properties that cycle through the tax sale system**. This is because many tax lien buyers are primarily interested in the short-term financial gain and not in taking title to the property.⁴ Significant portions of VAD properties offered at tax sale have been cycling for over 10 years, therefore severely underwater in value and unattractive to the private market. The most effective intervention is to sell the actual property (not the debt) to a new responsible owner or transfer at nominal cost to a land bank to stop this cycle. Then, these properties can be stewarded back to productive use and responsible ownership in line with community priorities.
2. **Land Bank:** A land bank could be a valuable tool for the City of South Bend and St. Joseph County (the County) if both local governments commit to working together to create a collaborative, transparent, and comprehensive approach that equitably addresses VAD properties. **A joint City-County land bank would be the best option** given most VAD properties are in the City and the County has jurisdiction over the pipeline of properties through the tax sale system. **It is worth seriously considering a third-party entity to operate the land bank**, as it could provide expertise, neutrality, flexibility, and transparency in fully utilizing this new tool.
3. **Community Engagement and Partnerships:** It is critical to continue engaging and **building relationships with the residents who are most impacted by VAD properties** as well as with nonprofits that are committed to revitalization in South Bend. The City and County can more readily achieve their housing objectives by **expanding partnerships with local nonprofits and affordable housing developers** and creating an inexpensive, accessible pipeline of properties.
4. **Current Toolbox and Potential Legislative Changes:** The City and County have a decent set of legal tools available in state law. However, a land bank will only be effective if there is coordination of *existing* tools—like delinquent property tax enforcement and code enforcement—and consideration of *new* tools that are not yet available in state law, that could help **bypass the harmful practice of selling delinquent property taxes to private buyers**. The City and County should also consider working with other Indiana communities to **strengthen the Indiana Land Bank Act** by improving land bank access to tax-delinquent properties and funding options.⁵

³ A list of meeting participants can be found in [Appendix B](#).

⁴ The tax sale system refers to the sale of tax liens (debt) not the property, which is the current practice of delinquent property tax enforcement in Indiana. For more information, please see The Cost of the Status Quo section in the full report

⁵ Indiana Land Bank Act, IC § 36-7-38-1, *et seq.*

5. **Availability of Data:** There is an opportunity to **improve and centralize how the City and County collect and manage data** to understand of the inventory of VAD properties, determine which properties to prioritize for code enforcement to prevent further decline, and which properties might be better addressed by a potential land bank.

If a joint City-County land bank moves forward, and the County agree to use its authority in the enforcement of delinquent property taxes to provide a proposed land bank cost-effective access to VAD properties causing the most harm, leaders should consider the following decision points and recommendations:

Decision Point #1: Land Bank Formation and Governance

- A. Consider forming a land bank via interlocal agreement between the City of South Bend and St. Joseph County.
- B. Be responsive to address properties throughout St. Joseph County.
- C. Prioritize board members with relevant expertise and who represent the communities where the land bank will work.
- D. Consider forming an advisory committee of residents, partner organizations, and allied groups, particularly that represent communities most impacted by vacancy and abandonment.

Decision Point #2: Type of Organization

- A. Consider establishing the land bank as a nonprofit entity.
- B. Designate the City as the governmental entity responsible for establishing the nonprofit.

Decision Point #3: Priorities and Policies

- A. Immediately set priorities, policies, and procedures for all land bank acquisitions and dispositions.
- B. Revisit priorities, policies, and procedures regularly to ensure they reflect community needs and land bank capacity.

Decision Point #4: Tax Sale Data Management and Analysis

- A. Improve data collection and management to better understand the inventory and outcomes of VAD properties cycling through the tax sale system.

Decision Point #5: Initial Inventory

- A. Review the tax certificate list to determine which certificates are stuck in the tax sale cycle and are good candidates for land bank intervention.
- B. Evaluate existing public inventories and prioritize properties to transfer to the land bank.

Decision Point #6: Future Inventory

- A. Consider bidding on targeted properties at the first tax sale, in limited circumstances.
- B. Develop a systematized process to transfer deeds for properties that do not sell at the first tax sale to the land bank.
- C. Consider bidding at the County Commissioners' Certificate Sale if there is no systemized process for certificate transfers from the County.
- D. Accept and/or request the transfer of publicly owned properties from the City and County.
- E. Work with the City to roll unpaid code liens onto the annual tax bill.

Decision Point #7: Capacity and Staffing

- A. Consider entering into an agreement to receive land bank staffing services from an existing entity, like Michiana Area Council of Governments.
- B. Establish recurring meetings to discuss, strategize, and align land bank interventions and share knowledge and expertise.
- C. Contract with a nonprofit or locally owned company with expertise in property management to maintain land bank properties.
- D. Develop partnerships with local nonprofits to acquire and transform land bank properties to address the evolving and expansive needs of the community.

Decision Point #8: Funding

- A. Consider committing annual funding to the land bank (City of South Bend).
- B. Consider committing startup capital for the land bank and identifying opportunities for future support (St. Joseph County).
- C. Consider transferring tax deeds to the land bank for at a cost that covers legal expenses or tax certificates at no charge after the initial six-month period has expired (St. Joseph County).
- D. Structure the interlocal agreement to provide 50 percent of property taxes to the land bank for five years from properties acquired and sold by the land bank.
- E. Develop a fundraising strategy and solicit commitments from philanthropic partners.

We hope this report will provide the guidance needed to help establish a land bank while continuing to invest in preventing more property decline.⁶ The residents of South Bend and St. Joseph County are lucky to have such a thoughtful and engaged group of public and community leaders committed to a more equitable and effective path to community revitalization.

⁶ The information provided in this report does not, and is not intended to, constitute legal advice. The City and County should consult with local legal counsel before acting or relying on any information in this report.

Introduction

In recent years, community members and South Bend leadership have driven a focused effort to assess whether a land bank could help address longstanding issues with vacant, abandoned, and deteriorated (VAD) properties in the city. Research by the Notre Dame School of Law Community Development Clinic strengthened interest in a land bank and provides some options for moving forward. However, stakeholders remained uncertain about which governmental entities might be party to a new land bank, what geographic area the land bank would serve, and several other key questions.

In January 2023, the City of South Bend (City) engaged the Center for Community Progress (Community Progress) to assess the feasibility of a land bank and provide a roadmap of critical decision points and recommendations. Over the course of eight months, the Community Progress technical assistance team, led by Kim Graziani and Liz Kozub with legal support from Libby Benton, reviewed state and local laws; requested and analyzed parcel data to better understand the scale of VAD properties and a land bank’s potential inventory; and conducted virtual and in-person sessions with a wide range of public and community stakeholders.⁷

Many communities across the country use public entities known as land banks to acquire, steward, and sell VAD properties to new, responsible owners through the delinquent property tax enforcement process.⁸ We focus on the delinquent property tax enforcement process given the strong correlation between VAD properties and delinquent property taxes. To a lesser degree, we also discuss the housing and building code enforcement system, which can prevent properties from declining and compel the transfer of vacant properties to new owners.

In meeting the goals of this project, Community Progress drew on experiences working closely with a statewide coalition of more than 20 practitioners and advocates over the last two and a half years to explore reforms to strengthen Indiana’s Land Bank Act. The coalition included representatives from three active Indiana land banks: Evansville, Indianapolis, and Muncie. This report concludes a land bank formed through a City-County partnership could prove valuable, if and only if there is agreement to modify current delinquent property tax enforcement practices.

Based on preliminary discussions with leaders from the City of Evansville, we recommend looking to the partnership between the Evansville Land Bank and Vanderburgh County as a model. These entities established an interlocal agreement after the City of Evansville created its land bank. This agreement sets out an incredibly efficient and effective transfer of properties between both parties. The Evansville Land Bank can request any tax certificates that do not sell at the first tax sale from the County. Instead of just transferring the tax certificate, the County takes the important step of also conducting all necessary title work before transferring the actual property to the land bank. Now with clear, insurable title that protects a buyer and potential lenders, these properties become much more marketable. If St. Joseph County commits to a similar level of collaboration, then stakeholders should advance the idea of a City-County land bank and follow the road map and recommendations detailed in this report.

The next section describes the costs of the status quo and how local delinquent property tax enforcement practices exacerbate VAD property challenges, harm neighborhoods, and strain local and county finances. The third section explains how a land bank can interrupt this harmful cycle, delivering positive outcomes for residents, attracting new investment to neighborhoods long stymied by vacancy, and growing the tax base. The final section details decisions to make—in close coordination with St. Joseph County and other local community, institutional, and financial partners and allies—when creating a land bank.

⁷ A list of meeting participants can be found in [Appendix B](#).

⁸ To learn more about land banks, visit our land banks online resource center at <https://communityprogress.org/resources/land-banks>.

The Costs of the Status Quo

Hundreds of VAD properties, primarily vacant lots, hurt the health, safety, and vibrancy of select neighborhoods in South Bend and, to a lesser extent, other areas of St. Joseph County as well. Many of these lots are privately owned and are the unintended consequence of the otherwise successful “1,000 Houses in 1,000 Days” initiative completed in 2015.⁹ Local governments have at their disposal two key systems to address the harms imposed by VAD properties: **housing and building code enforcement (administered by the City) and delinquent property tax enforcement (administered by the County)**. By examining how these systems interact with VAD properties, it becomes clear these properties are trapped in a perpetual cycle of decline that is incredibly costly for both local governments. A land bank can interrupt this status quo and break the cycle for VAD properties and their neighborhoods for a promising future.

Code Enforcement: The Perpetual, Costly Cycle of Property Vacancy

When a property has code violations, the City’s Neighborhood Services and Enforcement (NSE) will send a notice of violation to the property owner with a directive to abate the issue. If that violation is not addressed within the specified timeframe, the City has the authority to abate the issue and bill the owner to recoup the public costs. These abatement activities can range from mowing vacant lots to demolishing unsafe structures. If the owner fails to pay back the costs of the abatement, the City sends the bill to a collection agency. According to the City, however, the collection rate is extremely low—approximately 3 to 4 percent.

State and local laws allow the City to carry out abatement actions on *chronic violators* more efficiently. Once the property meets certain criteria it can be designated as under “continuous enforcement”—a practice frequently used on privately owned vacant lots. The City sends one notice at the beginning of the year to notify an owner the property is under continuous enforcement actions. Then, the City is able to abate future violations without issuing a notice for the owner to address the violation and bill the owner for the subsequent expenses. Properties can remain under continuous enforcement for two years, once added to the list. The City uses a tiered pricing structure with abatement costs increasing for properties that are on the list longer than one year.

While this practice allows for some efficiencies, it still involves a significant expenditure of tax dollars, uses an ineffective collection approach, and lacks a final enforcement event to compel a transfer of property ownership to a new, responsible owner.

Community Progress has seen from our work across the country that using a third-party collection agency, as is done in South Bend, is ineffective in recouping public dollars. A better approach known as “Fix it Up, Pay it Up, Give it Up,” relies on building a procedural link between code enforcement and delinquent property tax enforcement to ensure either (1) all tax dollars used to abate nuisances on privately owned properties are fully reimbursed, or (2) the property can be efficiently transferred to a new, responsible owner (like a potential land bank) and returned to productive use in line with community priorities. Fortunately, Indiana law grants local

⁹ City of South Bend, Vacant and Abandoned Properties 1,000 Houses in 1,000 Days: Community Update, December 7, 2015, <https://southbend.in.gov/wp-content/uploads/2018/05/VA-Community-Update-Presentation.pdf>.

The Costs of the Status Quo



300

properties are on the **continuous enforcement** list for which the City regularly abates issues

In 2022, the City of South Bend completed:



1,454

environmental abatements
(mowing grass and weeds)



2,643

illegal dumping cleanups



3,500

tire pick-ups



\$170-620

cost to the City **every time** it abates
overgrown grass and weeds on
vacant properties

The City could spend as much
\$900,000 per year just mowing
vacant properties.

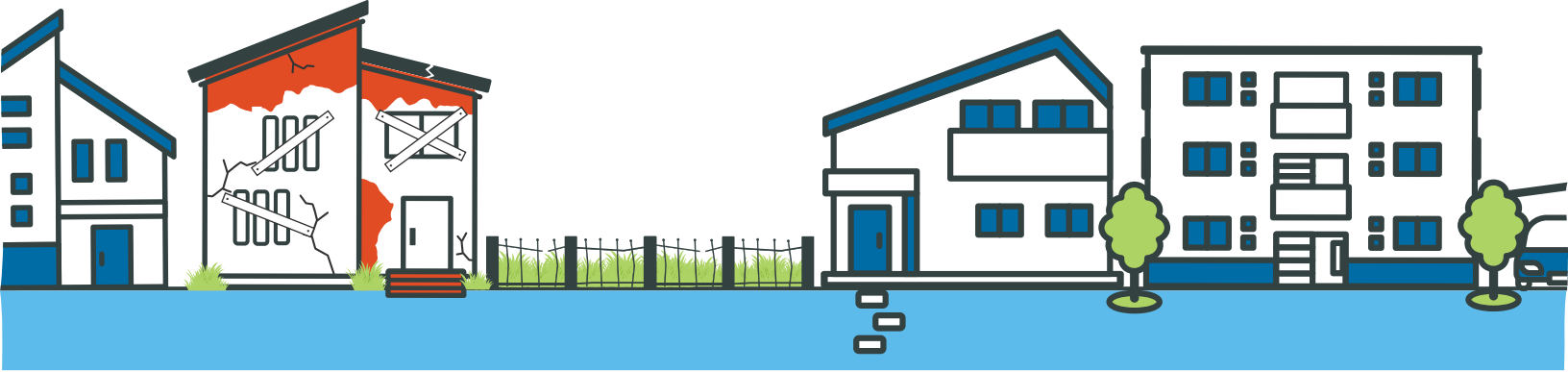
-96%

The City **loses 96%** of its investment
in abatement by sending bills to a
third-party collections agency.

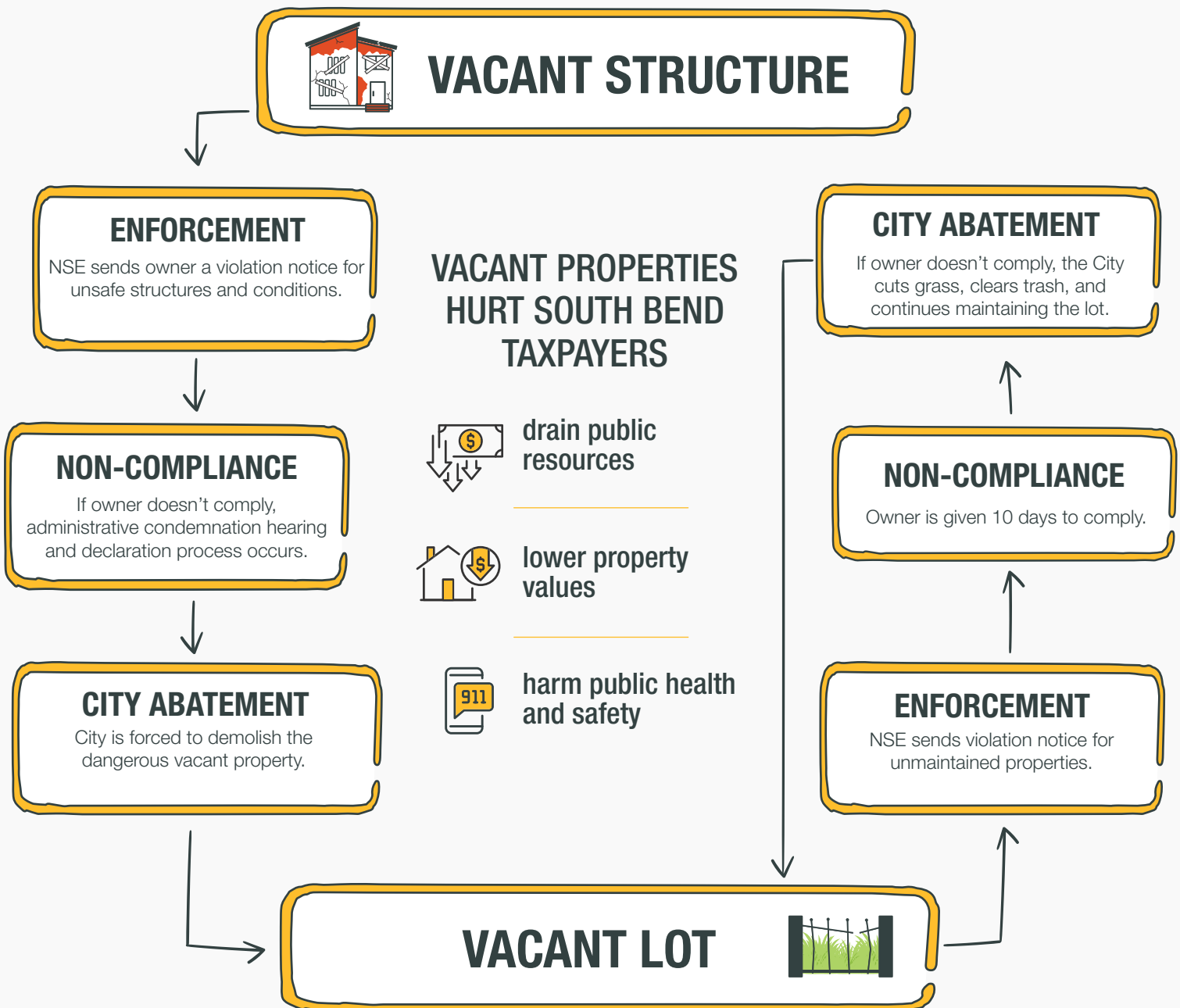
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governments the authority to add unpaid code liens to the owner's property tax bill and enforce in the same manner as delinquent taxes. Read more about a Fix it Up, Pay it Up, Give it Up approach in [Appendix C](#).

Absent this approach, the City continues to spend public dollars each year to do routine maintenance on privately owned, neglected vacant lots. Meanwhile, these vacant lots continue accruing tax debt, falling further underwater in value in neighborhoods with weak housing markets and little to no chance of attracting responsible, private buyers. Monitoring how these VAD properties move through the County's delinquent property tax enforcement process reveals the second perpetual, costly cycle of the status quo.



The Perpetual Cycle of Vacancy in South Bend



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Delinquent Property Tax Enforcement: The Perpetual Cycle of Tax Lien Sales

In St. Joseph County, consistent with state law, there are two opportunities for private purchasers to purchase tax liens.

The first sale happens in the fall, when tax certificates are auctioned for the price of all the debt owed, including taxes and other municipal liens. If a certificate is sold to a private buyer at this first sale, the owner of the property has one year to pay off the debt plus interest and other administrative and legal costs that go directly into the pocket of the purchaser. After this one-year redemption period ends, if the owner does not redeem their property, the private purchaser may go through the legal process of taking title to the property.¹⁰

Tax certificates that are not sold at the first tax sale are brought to the County Commissioners' Certificate Sale in the spring. St. Joseph County sets the minimum bid price for the certificate at this second sale, noting it is not uncommon for tax certificates on vacant lots to be sold for \$25, and a 120-day redemption period commences before the purchaser can request title to the property. Tax certificates that do not receive any bid at a County Commissioners' Certificate Sale cycle back through the system and are offered again at the next tax sale the following year, but this time the amount of the public debt relative to the market value is further underwater and even less attractive to the private market.

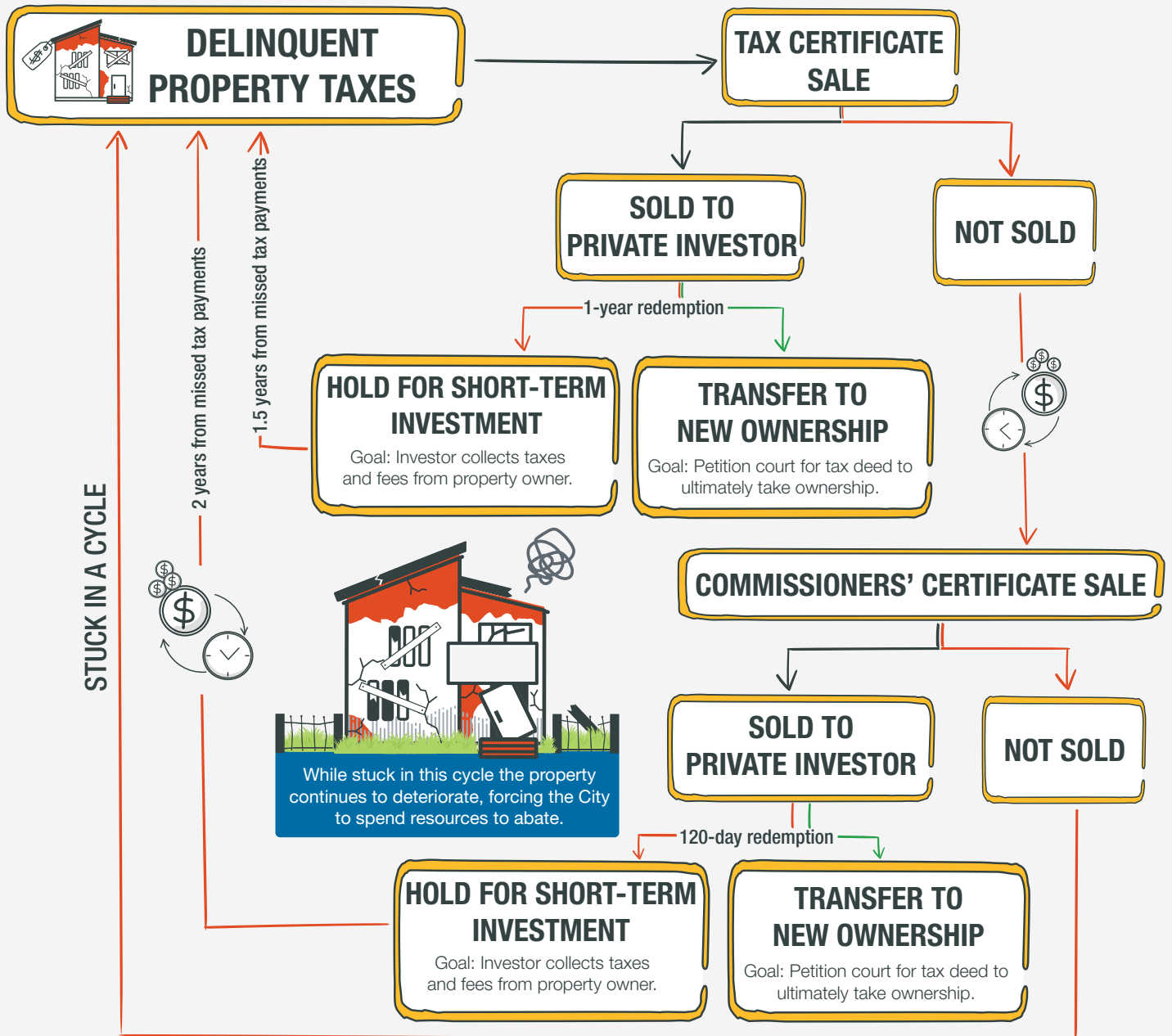
We appreciate the County's cooperation to date. Unfortunately, we were unsuccessful in our attempts to collect definitive numbers on the outcome of tax lien sales. It was clear from our discussions with local stakeholders, however, that private buyers were primarily motivated by the short-term financial incentive, not interested in taking title to the property.

Indiana state law affords all counties discretion for what happens to tax certificates that receive no bids at the first tax sale. St. Joseph County could withhold these certificates from the second County Commissioners' Certificate Sale, wait 120 days for the redemption period, and then foreclose on the certificate and acquire the tax deed (i.e., the property, not just the debt). This is a useful and superior alternative for the hundreds of privately owned VAD properties in South Bend (and throughout St. Joseph County) that are underwater, causing harm to residents, forcing local governments to spend tax dollars on abating nuisance conditions, and denying the County critical tax revenue. This alternative pathway was used in the 1990s but the County stopped acquiring deeds of VAD properties because they were costly to maintain and a challenge to reactivate.

A land bank can bring the exact capacity, function, and focus needed to address this challenge, breaking these harmful cycles and stewarding these liabilities to assets, in partnership with others, that serve neighbors, improve the neighborhood, and expand the tax base.

¹⁰ City of South Bend, Vacant and Abandoned Properties Task Force Report, 2013, https://southbendin.gov/wp-content/uploads/2018/05/Code_FinalVATF_Report_2_red.pdf.

The Perpetual Cycle of Tax Lien Sales in St. Joseph County



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An Important Note on the Delinquent Property Tax Enforcement Process

The broken delinquent property tax enforcement process is unquestionably one of the leading causes of VAD properties. Tax delinquency is a clear warning sign that a property is at risk of entering a devastating cycle of abandonment and decline unless swift intervention is taken. The most effective intervention is transferring VAD properties to responsible ownership as swiftly as possible.

Currently, local governments across Indiana cannot swiftly intervene and transfer VAD properties to responsible ownership. They must sell the tax lien (the debt that includes delinquent taxes and other public liens) to a private buyer instead of selling the property itself to a new, responsible owner. Rationally, LLCs or individuals buy certificates for the properties that will yield a profit, meaning tax liens for many low-value VAD properties in distressed markets will not sell and instead end up cycling through the broken system. Local governments are left with limited power to acquire, control, or manage these properties, yet are still responsible for putting out fires or boarding the windows and doors to ensure public safety.

An equitable, effective, and efficient delinquent property tax enforcement process allows a local government to facilitate the transfer of a VAD property to a new responsible owner,¹¹ and is therefore a critical part of a Fix it Up, Pay it Up, Give it Up approach.¹² This role can become much more difficult to carry out when the local government is required to first offer the tax debt—which may include unpaid code liens—to private buyers at least once, like in St. Joseph County.

This practice essentially transfers the local government’s right to collect and foreclose on the unpaid debt to a private party. Buyers at tax lien sales are likely more interested in collecting interest and fees from the delinquent owner than actually getting a VAD property revitalized in line with community needs. A Fix it Up, Pay it Up, Give it Up approach may still be possible in jurisdictions that require the sale of tax liens if there are appropriate tools to exclude VAD properties from this practice and facilitate the foreclosure and transfer of the property to a new owner.

Over the past few years, there have been legislative efforts to change the Indiana delinquent property tax enforcement statute, which would allow counties to exercise more control over the transfer of certain VAD properties. While some legislators have expressed strong support, it appears more education of policymakers is needed to build broad understanding of the intent and purpose of these locally derived reform proposals.¹³ We encourage South Bend and St. Joseph County to continue working with stakeholders across Indiana to explore the advantages of selling the property—not just selling the debt—with insurable title to a new, responsible owner through a judicial in rem foreclosure action.¹⁴ This would also create a much more predictable pipeline of properties for a land bank.

11 Kim Graziani, *Reimagine Delinquent Property Tax Enforcement: How to Reduce Vacancy, Advance Racial Equity, and Improve Public Services* (Center for Community Progress, 2022), <https://communityprogress.org/publications/reimagine-delinquent-property-tax-enforcement/>.

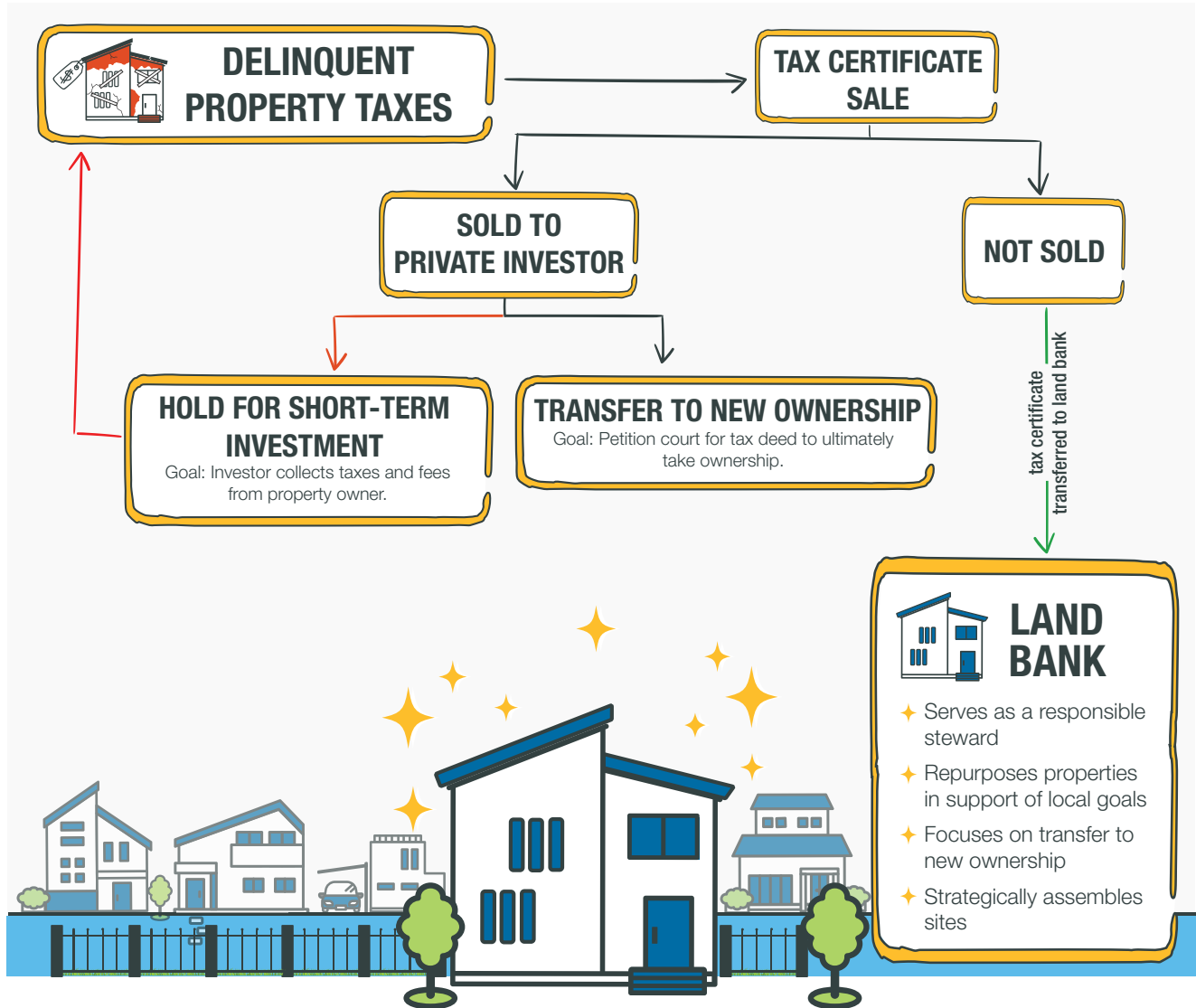
12 See [Appendix C](#) for more information on the Fix it Up, Pay it Up, Give it Up approach.

13 Since 2021, Community Progress has been working with Prosperity Indiana and a coalition of over 20 practitioners and advocates from across the state to develop and advocate for legislative changes to the Indiana Land Bank Act that would strengthen land banks’ operations across the state. Specifically, the legislation advocated for more funding provisions to support land bank operations.

14 For more information on judicial in rem and other ways to create a more equitable, effective, and efficient delinquent property tax enforcement process, please see *Reimagine Delinquent Property Tax Enforcement*, <https://communityprogress.org/publications/reimagine-delinquent-property-tax-enforcement/>.

How a Land Bank Can Break the Cycle

Land banks provide alternative outcomes to the cycles that perpetuate VAD properties. A land bank's sole responsibility is to acquire and repurpose VAD properties, especially in communities where public entities lack capacity to own these properties, like St. Joseph County. Learning from the successful partnership between Vanderburgh County and Evansville, St. Joseph County could restart the practice of foreclosing on tax certificates that receive no bid at the first tax sale, and transfer the deed to a land bank that will steward properties, mitigate code violations, and determine reuse opportunities in line with community goals.



Graphic by J Original Designs / Copyright Center for Community Progress, 2023

How much does a VAD property cost the City and County?

These hypothetical examples are based on actual properties in South Bend and illustrate the costs they pose to the City and County through delinquent property taxes and continuous enforcement.



PROPERTY A: Vacant lot where a house was demolished

In the tax and code enforcement cycle since 2015.

Costs of demolition and maintenance	-\$19,153
Public safety costs	-\$500
Taxes due	-\$11,569
Total cost	-\$31,222
	over 8 years



PROPERTY B: Vacant house

In the tax and code enforcement cycle since 2021.

Costs of abatement and maintenance	-\$9,714
Public safety costs	-\$250
Taxes due	-\$5,847
Total cost	-\$15,811
	over 5 years



What happens next?



STATUS QUO

Property continues to go up for tax sale

City keeps spending tax dollars to abate issues

Property keeps hurting neighborhood safety, property values, and community wellbeing

City, County, and school district continue receiving no tax revenue

WITH A LAND BANK

Property transferred to land bank, preventing further decline

City no longer spends tax dollars to abate violations

Land bank clears title and transfers property to a new, responsible owner

Property can be returned to City, County, and school district tax rolls and repurposed in line with community goals

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Land Banks Break the Cycle of Vacancy

National Overview

Over the past 40 years, most land banks have been created across the country as public entities—usually special purpose nonprofit corporations or public authorities—with legislated governmental powers. Their primary focus is to return VAD properties to productive use. There are over 300 land banks or land banking programs in operation across the country.¹⁵

Land banks are one of several tools in a larger system addressing the cycle of vacancy and abandonment in any given community. Land banks typically focus on a subset of VAD properties that (1) have been altogether rejected by the private market due to various legal and financial barriers, and (2) cause the most harm to a community—creating public safety hazards, driving down property values, and draining tax dollars.

The most effective land banks around the country have special powers granted by state-enabling legislation, including Indiana, that allow them to work more equitably, efficiently, and effectively than other governmental or nonprofit entities.

State-enabling legislation can allow a land bank to intervene in the tax and lien enforcement process to acquire tax-delinquent properties for substantially less than the amounts due on the property, extinguish past liens, clear title, and hold property in a tax-exempt status until it is sold.

These laws allow land banks to market and convey properties more flexibly than local governments, prioritizing the best community outcome over highest bid. Some state-enabling legislation also identifies sources of dedicated funding to help pay for land bank operations.

The most effective land banks share several key characteristics:¹⁶

What is a land bank?

Land banks are public entities with unique governmental powers, created pursuant to state-enabling legislation, that are solely focused on returning problem properties to productive use in alignment with community goals. Indiana is one of the seventeen states, as well as Puerto Rico, that have passed state-enabling land bank legislation.

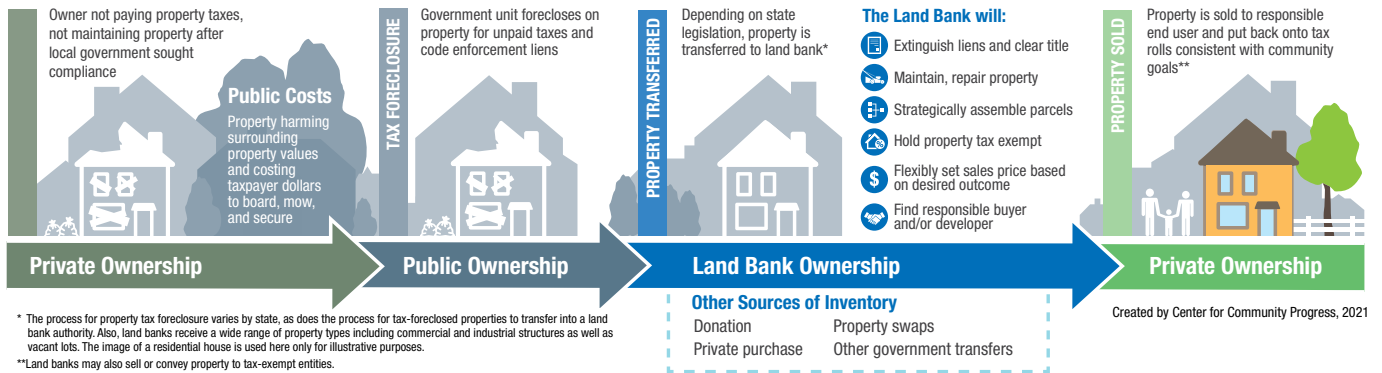
What is a land banking program?

Land banking programs are run by nonprofit or governmental entities that focus specifically on the acquisition, holding, and sale of vacant and abandoned properties. They typically do not have the unique powers of legislatively enabled land banks but can still provide important support in transforming vacant properties.

¹⁵ National Land Bank Map, Center for Community Progress, <https://communityprogress.org/resources/land-banks/national-land-bank-map/>.

¹⁶ A comprehensive overview of land banking can be found in the Center for Community Progress' webpage, which includes access to Frank S. Alexander, *Land Banks and Land Banking (2nd Ed.)* June 2015, <https://communityprogress.org/publications/land-banks-and-land-banking-2nd-edition/>. The Spanish translation of is also available, <https://communityprogress.org/wp-content/uploads/2021/06/2022-10-Banco-de-Tierras.pdf>.

How a Land Bank Works



Strategic Links to the Delinquent Property Tax Enforcement Process

State-enabling legislation grants land banks specific powers to intervene in the delinquent property tax enforcement process cost-effectively, efficiently, and ahead of speculators and private buyers. While assigning tax certificates and publicly auctioning tax-foreclosed properties may work in strong housing markets, these approaches rarely, if ever, lead to positive outcomes for VAD properties in distressed neighborhoods.

Recurring and Flexible Sources of Funding

Because land banks focus on VAD properties effectively rejected by the private market, they therefore will always require some level of flexible public subsidy—whether cash or in-kind—proportional to the scope and scale of VAD properties the land bank is expected to help resolve. With a recurring and flexible source of funding, land banks can implement the necessary creative interventions and community partnerships to return VAD properties to productive, community-aligned uses.

Policy-Driven, Transparent, and Publicly Accountable Transactions

The acquisition and disposition of properties—especially in those communities harmed by historically racist and unjust policies—is an important and sensitive endeavor. Successful land banks go to great lengths to build and maintain trust with the public through complete transparency in their priorities, policies, and procedures. Land banks should make sure to establish these ground rules and policies prior to any transactions and revisit them annually with public input to maintain a high standard of transparency and accountability.

Authentic Engagement with Residents and Other Community Stakeholders from the Outset

Residents and community stakeholders understand their community’s history and goals best. Successful land banks find creative and consistent ways to inform, engage, and invite residents to prioritize land bank interventions and develop long-term solutions. Whether by establishing a community advisory board or regularly hosting neighborhood meetings, land banks should explore and implement practices that affirm a strong commitment to inclusiveness, engagement, and community empowerment.

Scaling in Response to Local Goals and Needs

Successful land banks establish acquisition and disposition strategies that directly meet local land use goals and community needs. Some land banks tackle massive inventories of extremely unsafe abandoned properties as

part of an urgent stabilization and public safety strategy, while others operate selectively with careful deliberation. Land banks should always make decisions based on a strong understanding of community priorities and goals, coordinate with local partners, and complement existing prevention strategies to address vacancy and abandonment.

Alignment with Other Local or Regional Tools and Community Programs

A land bank is simply one tool to support community goals, therefore, it is important to coordinate with other neighborhood stabilization and revitalization tools. Successful land banks collaborate across diverse public, private, and nonprofit sectors that share similar economic and community development goals. Effective land bank activities complement existing blight prevention efforts, including but not limited to delinquent property tax enforcement and housing and building code enforcement.

Consider each of these key elements as deliberations continue regarding the creation of a land bank in South Bend and St. Joseph County.

Related and Recent Legislation

During its 2022-23 legislative session, Indiana enacted two pieces of legislation—House Bill 1627 and Senate Bill 157 giving local governments new tools to address tax-delinquent properties.¹⁷

HB 1627 allows County treasurers to offer tax certificates that have not been purchased at two or more tax sales at a special sale open only to certain eligible nonprofits that intend to use the properties to develop low- or moderate-income housing. To acquire the certificates, the nonprofits must pay at least the minimum bid, which includes all back taxes, costs, and fees. While this statute provides a new avenue for certain nonprofits to acquire properties for low- and moderate-income housing, it does not eliminate the role of a land bank. In practice, Indiana land banks can acquire tax certificates more quickly than nonprofits through the special sale, after they have failed to sell at only one tax sale, and can acquire and hold properties for a broad range of end uses. Land banks can also be a reliable and cost-effective way for nonprofits to acquire properties.

SB 157 appears to create a new way for local governments to acquire deeds and quiet title to tax-delinquent properties. However, it is not clear that this new mechanism results in properties with insurable title or that it is an improvement over the current process local governments can use to gain control of such properties, which is described in Section 2. Understanding the intent of the legislation and how it would operate in practice is beyond the scope of this engagement. Further research may be needed from local partners.

¹⁷ Sale of tax sale properties to nonprofits, Indiana General Assembly, (House Bill 1627, enacted May 1, 2023), <https://iga.in.gov/legislative/2023/bills/house/1627/details>; Parcels offered at successive tax sales, Indiana General Assembly, (Senate Bill 157, enacted April 20, 2023), <https://iga.in.gov/legislative/2023/bills/senate/157/details>.

Roadmap to a Land Bank in South Bend and St. Joseph County

In 2016, the Indiana State Legislature gave communities the authority to establish land banks through the Indiana Land Bank Act.¹⁸ Land banks in Indiana are granted broad powers including “all powers necessary, convenient, or appropriate to carry out and effectuate the land bank’s public and corporate purposes.”¹⁹ They have several special powers and authorities, including the ability to:

- Acquire and maintain property
- Acquire property by requesting the transfer of tax certificates held by their respective counties
- Dispose of properties in a manner that meets a broad range of goals, including stabilizing neighborhoods, creating affordable housing, or enabling new green spaces
- Receive payments between 25-50 percent of property taxes collected for an agreed-upon period of time after properties are returned to the tax rolls by the land bank

The City of South Bend and St. Joseph County have an opportunity to leverage a land bank to address one of the most pressing challenges facing the region: VAD properties that repeatedly cycle through the tax sale system. Establishing a land bank will require strong political and operational cooperation between these local governments to achieve the shared goal of transforming VAD properties into community assets for the residents of South Bend and St. Joseph County.

This section outlines a roadmap for the City and County to consider in establishing a land bank. The roadmap is informed by several factors: findings from local research and interviews with stakeholders; key provisions and opportunities provided in the Indiana Land Bank Act; examples from the national field of land banking; and observations and recommendations provided by the Community Progress team. The following decision points and recommendations will guide the City and County through the enabling legislation and important provisions²⁰:

1. Land Bank Formation and Governance
2. Type of Organization
3. Priorities and Policies
4. Tax Sale Data Management and Analysis
5. Initial Inventory
6. Future Inventory
7. Capacity and Staffing
8. Funding

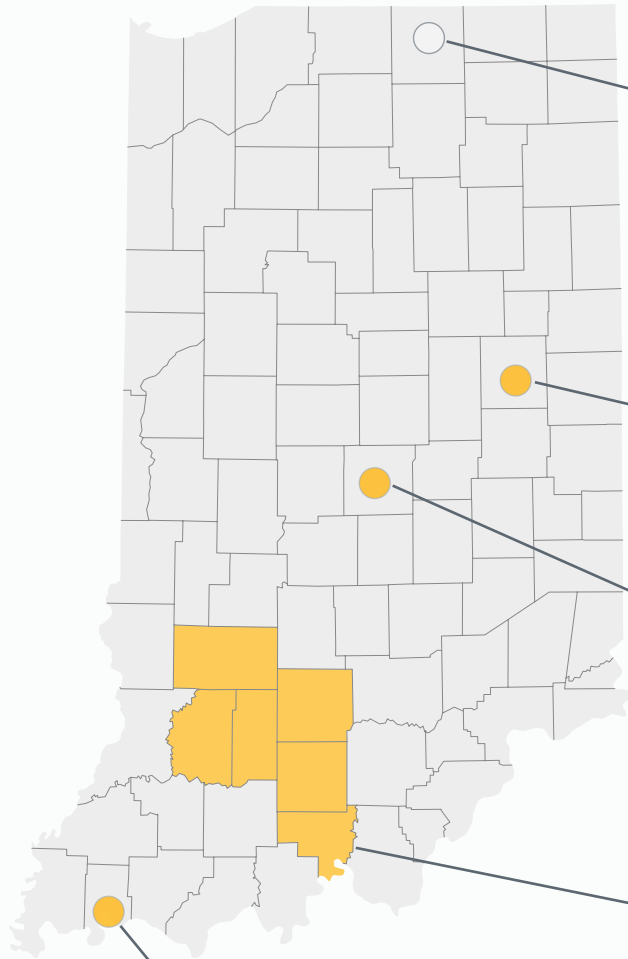
¹⁸ IC § 36-7-38, *et seq.*

¹⁹ IC § 36-7-38-8.

²⁰ These decisions points may not follow chronological order. For example, in an ideal scenario staffing decisions are made at the outset and delegated staff can shepherd these decisions points through the process.

We encourage the City and County to engage in meaningful dialogue with their administrative and legislative decision makers to determine the most appropriate path to success. In addition, the City and County should engage critical stakeholders, such as community development corporations (CDCs), nonprofits, and residents most impacted by vacancy and abandonment, to ensure a land bank is established through a transparent process in consultation with the communities it will serve.

Land Banks in Indiana



Note: The City of Elkhart, through their Redevelopment Commission, has established a land banking program to address the inventory of vacant, abandoned, tax-delinquent properties. The program was not established through the Indiana Land Bank Act and therefore does not have the special powers of land banks in Indiana, such as flexible disposition and ability to recapture taxes.

Muncie Land Bank

Est: 2017 by the City of Muncie
Entity Type: Nonprofit
Avg. Property Inventory: 25-40
Staffing: 1.5 dedicated

Renew Land Bank

Est: 2014 by the City of Indianapolis
Entity Type: Nonprofit
Avg. Property Inventory: 125-175
Staffing: 1 dedicated, 5 shared

Indiana Uplands Regional County Land Bank

Est: 2023 by the Counties of Crawford, Daviess, Greene, Lawrence, Martin, and Orange
Entity Type: Nonprofit
Avg. Property Inventory: 0
Staffing: 0, still in formation phase

Note: Formed by interlocal agreement between six counties

Evansville Land Bank Corporation

Est: 2016 by the City of Evansville
Entity Type: Nonprofit
Avg. Property Inventory: 300-500
Staffing: 1 dedicated, .5 shared

Note: Interlocal agreement between City and County establishes transfer process after first tax sale

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Decision Point #1: Land Bank Formation and Governance

The Indiana Land Bank Act allows for a range of eligible governmental entities to establish a land bank. The decision on what type of eligible unit also implicates the governing body for the land bank. Therefore, this section is broken into *who will form* the land bank, and subsequently *who will govern* the land bank.

Decision point #1a: Which eligible local government entity will form the land bank?

Under the Indiana Land Bank Act, the City and County are each authorized to create a land bank. They are also authorized to create a joint land bank through an interlocal agreement. Most often, land banks are established by, or in strong coordination with, the local government responsible for the delinquent property tax enforcement process and, if different, in close partnership with the local government where the majority of potential land bank inventory (VAD property) is located. This strong connection to the delinquent property tax enforcement process is critical, given 77 percent of land bank inventory across the country comes from this system.²¹

Decision point #1b: Who will govern the land bank?

The Indiana Land Bank Act requires that all land bank boards be governed by seven to nine directors. The appointments to the board of directors are specified in the legislation and specific to the local government entity that has established the land bank. The appointments are further specified by the city class.

Options for Board Composition

Option 1: Established by a Second-Class City²²

Geography: City of South Bend

Creation: Common Council Ordinance

Board Structure:

- Three directors appointed by the executive
- Three directors appointed by the legislative body
- One director appointed by the county treasurer
- Up to two directors appointed, as applicable, in the manner and subject to the requirements set forth in the land bank's bylaws

Option 2: Established by a County²³

Geography: St. Joseph County

Creation: County Council Ordinance

Board Structure:

- One director appointed by the county treasurer, who must be a resident of the county
- One director appointed by the county auditor
- Five directors respectively appointed by the executives of the five municipalities in the county with the five largest populations
- Up to two directors appointed, as applicable, in the manner and subject to the requirements set forth in the land bank's bylaws

Option 3: Interlocal Agreement²⁴

Geography: St. Joseph County²⁵

Creation: Ordinance passed by each governmental entity to enter an interlocal agreement

Board Structure:

- If a city and county create a land bank through interlocal agreement, they appear to have broad discretion in shaping the composition of the board. As a result, a city and county creating a land bank seem able to determine which authorities (e.g., city council, mayor, county commission, treasurer, etc.) can appoint members to the board and how many members they can appoint.

21 According to the biannual survey from the National Land Bank Network, an initiative of Community Progress, land banks reported 77 percent of their total inventories come from the delinquent tax foreclosure process. The second largest source is the transfer of existing publicly owned inventory into a land bank's portfolio, usually at the time of creation.

22 IC § 36-7-38-7.

23 IC § 36-7-38-5.

24 IC § 36-7-38-4.5.

25 If a land bank were to form by interlocal agreement, the geography would include "the territory of all the eligible governmental entities that have established the land bank, except for the territory of any municipality that has established another land bank." IC § 36-7-38-2(f)

While elected leaders have authority to appoint land bank board members and have discretion on who sits in those seats, including political appointments, it will be important that the land bank has diverse skills, expertise, and connections to the community. The Indiana Land Bank Act requires that board members have “demonstrated competency in an occupation or discipline that is relevant to the primary purpose of a land bank.” These occupations or discipline could include, for example, housing and community development, community engagement, and legal expertise in real estate transactions. It is also important for the board to reflect the racial, gender, and economic diversity of the communities where the land bank conducts the majority of its work.

Other Governance Considerations

It is imperative a land bank carry out its mission in line with community priorities, goals, and with a commitment to transparency. One way land banks have demonstrated this commitment is by establishing community advisory committees. In some states, these committees are required in the state legislation, in others they are established through local ordinance or by a policy decision of the board of directors. The Indiana Land Bank Act neither requires nor prohibits land banks from creating advisory committees.

Community advisory committees can serve dual purposes: ensuring that community input and priorities guide and inform land bank decisions, while also ensuring that land bank activities and decisions are communicated to the neighborhoods. Community advisory committees can also be a reliable and consistent venue through which to engage key partners that share a common goal of addressing VAD properties throughout South Bend and St. Joseph County.

Recommendations

- A. **Consider forming a land bank via interlocal agreement between the City of South Bend and St. Joseph County.**²⁶ While most VAD properties exist within South Bend, the County oversees the delinquent tax enforcement process, which will be the primary vehicle for the land bank to get its inventory. The critical need for cooperation between the two entities to successfully address VAD properties cannot be understated. An interlocal agreement can facilitate the cooperation required for a land bank to successfully operate. Such an interlocal agreement would need to comply with the requirements of the Indiana Land Bank Act and Indiana’s laws governing interlocal agreements.²⁷ Indiana’s Land Bank Act and laws governing interlocal agreements require that the agreement include, at a minimum:

- i. Name of the land bank
- ii. Its duration
- iii. Its purpose
- iv. Board composition including
 - Number of directors, which must be between seven and nine
 - The appointing authority of each member
 - Any directors that will serve as ex officio members

In addition to these legal requirements, the agreement should also include:

- i. Whether the land bank will be established as a public entity or nonprofit (discussed in Decision Point #2)
- ii. The process for acquiring properties
 - Initial inventory (discussed in Decision Point #5)
 - Future inventory (discussed in Decision Point #6)

²⁶ As an alternative, the City could establish a land bank to operate within the City of South Bend and subsequently enter into an interlocal agreement with St. Joseph County that establishes a mechanism to transfer tax certificate to the land bank. This is the process has proved to be efficient and efficient for the Evansville Land Bank, but limits the geography of the land bank to South Bend.

²⁷ Ind. Code § 36-1-7-1, *et seq.*

- iii. The process for holding and disposing of property
- iv. Staffing (discussed in Decision Point #7)
- v. Financing options (discussed in Decision Point #8)
- vi. The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination

- B. Be responsive to address properties throughout St. Joseph County.** While it is anticipated most of its work will occur in South Bend, a land bank formed in partnership with the County can, and should, be responsive to VAD properties in other communities as needed. According to County leaders, approximately 15 properties outside South Bend were demolished in 2022 based on the annual budget. This amount of demolition activity by the County has been consistent over the last few years.
- C. Prioritize board members with relevant expertise and who represent the communities where the land bank will work.** There is broad discretion in shaping the composition of the board when a land bank is created through interlocal agreement. The appointment of members can be made by various members of local government (e.g., city council, mayor, county commission, treasurer, etc.). All board members must have “demonstrated competency in an occupation or discipline that is relevant to the primary purpose of the land bank.”²⁸ Ideally, these members have experience in housing and community development, community engagement, and legal expertise in real estate transactions. For example, board appointments for the City and County could comprise:
- i. Three directors appointed by the City legislative body
 - Two should represent neighborhood-based groups who work in neighborhoods most impacted by vacancy and abandonment
 - ii. Two directors appointed by the City Mayor
 - iii. Two directors appointed by the County legislative body
 - One should represent the municipality (excluding South Bend) with the most vacant, tax-delinquent properties
 - iv. Two appointments by the Board of Directors
 - Ideally, these appointments reflect any additional needed expertise, such as housing and community development, community engagement, and legal expertise in real estate transactions
- D. Consider forming an advisory committee of residents, partner organizations, and allied groups, particularly those that represent communities most impacted by vacancy and abandonment.** Members of this committee might include community development corporations or trusted nonprofits (e.g., groups focused on housing affordability, urban gardening, or environmental justice).

²⁸ IC § 36-7-38-4(b).

Field Spotlight: Community Engagement

While many land banks have community advisory committees, there are meaningful ways to engage community in addition to (or in lieu of) an active community advisory committee. Lucas County Land Bank in Ohio recently launched RISE Neighborhoods, which partners with neighborhood organizations on placemaking initiatives that steady the real estate market, maintain property values, and build on resident-led efforts to improve quality of life.

The Ambassador Program of the Omaha Land Bank in Nebraska expands the bench of community members who inform the land bank. The land bank selects local ambassadors for a one-year program to build a diverse cohort of community advocates. While the primary goals of the program are to educate residents about the land bank and improve communication between neighbors and the board, the program also builds a pipeline of future board members.

Learn more about these initiatives at <https://lucascountylanbank.org/services/rise-neighborhoods> and <https://omahalandbank.org/get-involved/>.

Decision Point #2: Type of Organization

Nationally, land banks are designed as special public or nonprofit entities solely focused on converting VAD properties to productive use according to community goals. State-enabling legislation dictates the types of entities that land banks can be established as. The Indiana Land Bank Act allows for the establishing governmental entity to choose whether the land bank will be formed as a **governmental** or **nonprofit** entity.

It appears either option would allow local partners to effectively operate a land bank. Incorporating the land bank as a nonprofit may allow it to access more funding opportunities and donations to the land bank may be tax deductible, encouraging private giving.

If the land bank is a governmental entity the County could obtain a tax deed to the property and then transfer the tax deed to the land bank (see Decision Point #6, Future Inventory). If the land bank is a nonprofit, however, the County would transfer the tax certificate or tax deed to the land bank after following certain procedures, including a public hearing and resolution. There may be opportunity to specify the terms of the transfer of certificates to a nonprofit land bank via the interlocal agreement at the outset, or a subsequent interlocal agreement, and therefore eliminate the need for a resolution at every transfer request. As mentioned previously, in the interlocal agreement between the Evansville Land Bank (created as a nonprofit) and Vanderburgh County, the land bank identified properties of interest with tax liens that don't sell at the first tax sale. The County then proceeds with the necessary title work to ultimately transfer the actual property—not certificate—to the land bank with clear, insurable title with no additional resolutions needed.

We encourage the legal counsel for the City and County to consult relevant Indiana laws governing both public bodies and nonprofit corporations to determine what additional legal frameworks and requirements these entities will be subject to.

Recommendations

- A. **Consider establishing the land bank as a nonprofit entity.** There are a number of reasons why a land bank established as a nonprofit would be advantageous, including:
 - i. Land banks operating as nonprofits may have access to more funding opportunities from philanthropic and private supporters.
 - ii. In Indiana, all existing land banks have been formed as nonprofit entities. This trend will allow for a newly formed land bank to draw on existing processes and lessons learned from its counterparts across the state.
 - iii. A land bank that operates as a nonprofit outside of the public authorities of the City and County may be more flexible and responsive to community needs and goals. Some stakeholders expressed that a land bank established as a nonprofit would be seen as a more trusted partner, which is foundational to a land bank's success.
- B. **Designate the City as the governmental entity responsible for establishing the nonprofit.** To form a land bank as a nonprofit, and via interlocal agreement between the City and County, *one* of the local governmental entities entering into the agreement must create a land bank pursuant to the Indiana Land Bank Act. Given the vast majority of the land bank's activity will occur within South Bend, the City should take the responsibility for conducting the administrative and legal work to form the nonprofit. The formation of the land bank by the City will not affect the County's role in appointing board members or other items stipulated in the interlocal agreement.

Decision Point #3: Priorities and Policies

It is imperative that community goals drive the land bank's acquisition and disposition decisions. Setting priorities and policies when the land bank is first formed builds trust with the community and ensures the land bank staff and board have guidance to make important and transparent decisions in line with those community goals.

The land bank's policies should be developed in consultation with residents and community stakeholders, prior to any major acquisition and disposition decisions. These priorities and policies must address specific neighborhoods and communities, especially when its jurisdiction is county-wide.

The Indiana Land Bank Act requires that the land bank develop policies, guidelines, and procedures for the acquisition, disposition, and redevelopment of property by and from the land bank. The statute offers a broad range of acquisition and disposition goals, outlined in the following table.

Acquisition and Disposition Requirements as Described in the Indiana Land Bank Act

Acquisition

A land bank shall endeavor to acquire a diverse portfolio of properties to enable the land bank to dispose of diverse properties in diverse real estate markets in the county or municipal territory that the land bank serves and, thereby, generate revenue for the land bank in a sustainable manner. A land bank shall acquire property for the purpose of supporting the mission of the land bank.

Disposition

A land bank's priorities concerning the disposition of properties from the land bank must support the mission of the land bank, which includes the sale or transfer of properties:

- for redevelopment that will act as a catalyst for further development;
- that support a comprehensive development plan or strategic plan for neighborhood revitalization;
- that reduce blight in the community;
- that revitalize or stabilize neighborhoods;
- that will be returned to productive, tax paying status;
- that will be returned to productive uses, including development of side lots, green spaces, and gardens;
- that are available for immediate ownership or occupancy without a need for substantial rehabilitation;
- that will be used for affordable housing; or
- that will generate operating support for the functions of a land bank.

[Appendix D](#) provides a template of sample administrative policies which can be found in the second edition of Community Progress' *Land Banks and Land Banking* publication by Frank S. Alexander. As with any generic set of legal documents, it is inadvisable simply to cut and paste portions of them for adoption. Designing the appropriate policies and procedures for a particular jurisdiction must be done considering the precise language of the state-enabling statute, the provisions in the local government ordinance or agreement creating the land bank, and the strategic and tactical priorities as established by the land bank's board of directors. These sample policies and procedures should be viewed only as a list of topics to consider.

Recommendations

- A. **Immediately set priorities, policies, and procedures for all land bank acquisitions and dispositions.** Priorities should be clear, concise, and reflect community goals and needs. Those policies should then guide the land bank's operations to reach those priorities. While the board of directors will ultimately be responsible for approving these priorities and policies, an advisory committee, as discussed in Decision Point #1, should also have the opportunity to provide guidance.

- B. **Revisit priorities, policies, and procedures regularly to ensure they reflect community needs and land bank capacity.** Many land banks organize annual or biannual retreats to reflect on the progress of the land bank in addition to community workshops to hear and incorporate resident and community stakeholders' needs.

Decision Point #4: Tax Sale Data Management and Analysis

It is critical for the land bank, in strong coordination with the City and County, to understand the inventory of properties cycling through the delinquent property tax enforcement process. Properties that did not sell at the tax sale, especially those exposed to previous tax sales and Commissioners' certificate sales, are prime candidates for acquisition.

Several data points the County provided shed light on the properties stuck within the tax sale cycle. For example, about 400 properties that had received no bids during at least one prior tax sale were again offered at the Spring 2023 Commissioners' Certificate Sale. Recall, the minimum bid at the first tax sale is the amount of back taxes, assessments, penalties, and costs, so it's possible the private market is rejecting these properties because the debts exceed the value of the property. Every year, the property becomes further burdened by debt and even less attractive to private buyers. **Nearly 45 percent of these 400 properties have been stuck in the tax sale cycle for 11 years or more.**²⁹

Land speculation, however, is at a fevered pitch across the country, even in weaker markets. That might explain why all but two of the 400 certificates offered at the April 2023 County Commissioners' Certificate Sale received a bid—the first time in recent history for St. Joseph County. While this appears on face value to be a positive sign, consider that the minimum bid is determined by St. Joseph County and considerably less than the debt owed—as the starting bid for vacant lots is just \$25.

Moving forward, it will be critical for the County, City, and land bank to better understand the outcomes of the properties sold at these sales. Anecdotally, private buyers were more interested in recouping their short-term investments by collecting the interest, penalties, and fees from current owners than in taking ownership of the properties. The failure to transfer ownership of VAD properties continues to drain public resources and is incredibly damaging to neighborhoods and residents.

Other Considerations

Most communities report that the most effective intervention is transferring VAD properties (not the debt) to a new, responsible owner with insurable title as quickly as possible. Therefore, the judicial *in rem* foreclosure process is the best practice. Communities that sell the tax deed without insurable title (the likely result of using a foreclosure process without adequate notice and oversight) have reported negative community and financial impacts, including purchasers creating LLCs and walking away from properties once all profits are extracted.

²⁹ These figures were derived from tax sale data provided by St. Joseph County. The time frames are based on the number of penalties assessed to the property, which is serving as a proxy for years of delinquency.

What Happens to Tax Certificates?

Understanding whether tax certificates do or do not sell at tax sales only tells one part of the story. It is critically important to understand what happens after the sale to better understand if these properties continue to harm communities and drain taxpayer dollars.

The County should consider the following questions related to their inventory of tax certificates:

Of the properties that were exposed to the first tax sale:

- Which properties were exposed to previous tax sales?
- Did the tax certificate sell?
- If yes, did the purchaser request a tax deed and transfer ownership?

Of the properties that were exposed to Commissioners' Certificate Sale:

- Which properties were exposed to previous Commissioners' Certificate Sales?
- Did the certificate sell?
- If so, for how much?
- Did the purchasers request a tax deed and transfer ownership?

Field Spotlight: Data-Driven Inventory Management

In Ohio, the Summit County Land Bank (SCLB) overlays various datasets through Tolemi's BuildingBlocks platform to build its pipeline of strategic acquisitions. SCLB analyzes data related to property tax delinquency, foreclosures, proximity to existing land bank inventory, and neighborhood market indicators to identify the properties causing the most harm. In addition to making data-informed acquisition decisions, SCLB leverages workflow automation tools to manage VAD property maintenance and tracks the performance of the contractors conducting maintenance. The ability to store and analyze data also lets SCLB vet potential buyers to ensure land bank properties are not sold to individuals affiliated with LLCs or other entities with a history of tax delinquency, substandard property conditions, or failed redevelopment projects.

Learn more at <https://www.summitlandbank.org/properties>.

Recommendations

- A. **Improve data collection and management to better understand the inventory and outcomes of VAD properties cycling through the tax sale system.** By efficiently collecting, integrating, and analyzing multiple data points, the City, County, and land bank will better understand which properties will benefit from land bank intervention. This system can also help the land bank prioritize its limited resources to address the properties causing the most harm. The City and County should annually overlay data related to tax delinquency and properties undergoing continuous enforcement actions to determine which properties have the highest public costs to potentially transfer to the land bank.

Decision Point #5: Initial Inventory

A land bank's initial property inventory can either be a foundation for success or create barriers with long-term implications. This section explores how a land bank can acquire its initial inventory by examining the following categories of properties:

1. Acquiring tax certificate for properties cycling through the tax sale system (~400)³⁰
2. Transfers of City-owned vacant lots (739)
3. Transfers of County-owned vacant lots (115)

1. Acquiring tax certificate for properties cycling through the tax sale system

Indiana land banks have a unique opportunity when first formed to acquire tax-delinquent properties through the transfer of existing tax certificates or tax deeds held by the County Commissioners. Within six months of the land bank's formation, the County must give the land bank a list of properties for which it holds tax certificates or tax deeds (except for those committed to a redevelopment project or another purpose) and offer to transfer these certificates or deeds to the land bank at no cost.³¹

The land bank must request transfer of these certificates or deeds within six months of formation unless there is an agreement for a longer period between the County and the land bank.

While a land bank can continue working with its respective County to request certificates at no cost in the future (described in Decision Point #6), the requirement of the County to transfer properties to the land bank at no cost is only applicable within the first six months of formation.

³⁰ As discussed in Decision Point #4, the data related to properties stuck in the tax sale process remains unclear. Additional analysis is needed to understand the number of tax certificates that could be transferred to the land bank.

³¹ IC § 36-7-38-13.

2. Transfers of City-owned Vacant Lots

Since 2014, the City has been acquiring properties located within specific target areas identified by the Department of Community Investment and where there are approved plans or a specific project identified. Most of the scattered sites are vacant lots, and owned by the Board of Public Works (BPW). Approximately 250–300 of the 739 lots came into the City's ownership through the transfer of tax certificates from St. Joseph County. The other properties have been in the City's ownership through legacy programs dating back to the 1990s.

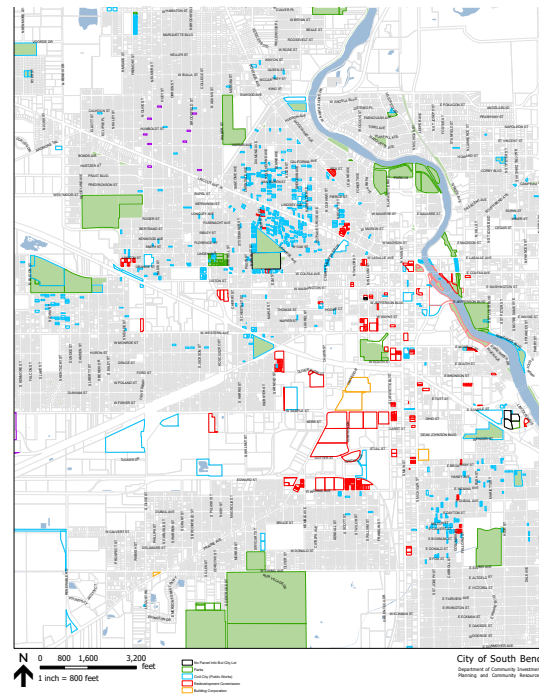
Through this acquisition and holding strategy, the City has transferred properties to nonprofit organizations who serve as responsible owners. However, the City is limited in its capacity and ability to flexibly dispose of these properties. When disposing of property, the City is required to advertise and open bids at a BPW meeting. The minimum bid is set at the average of two appraisals unless a BPW property is assessed for less than \$6,000 by the County Assessor (true of the vast majority of BPW scattered residential lots), in which case the minimum bid is that assessed value. There is some flexibility to request proposals and score submissions as the basis of disposing. Statute allows transferring property directly to a nonprofit without opening bids for the property.

Properties owned by the Redevelopment Commission (RDC) also must adhere to specific disposition processes. Properties are offered for the average of two appraisals unless they are valued at \$10,000 or less by the County Assessor, in which case the minimum bid is that assessed value. RDC must advertise the property and the request for bid requirements, but is not required to accept any bids received. If no bids are received after the public notice period expires, or if the RDC rejects all bids, the RDC may offer the property at a reduced or no cost to an interested purchaser.

The City has also been creative in implementing programs for more flexible disposition, such as the New Neighborhood Homes Initiative which encourages construction of new residential housing on scattered sites for urban infill,³² including on lots owned by the City. However, even with these types of programs the City is still limited in its capacity to flexibly dispose of all properties effectively and efficiently.

The Department of Community Investment has identified clusters of properties that may be ideal candidates for land bank intervention.

Properties Owned by the City of South Bend



Source: City of South Bend

³² More information on the New Neighborhoods Home Initiative can be found on the City of South Bend's webpage, <https://southbendin.gov/newneighborhoodhousing>.

Properties in the Near Northwest and Lincoln Park Neighborhoods

The upper clusters of properties are in the Near Northwest neighborhood. This neighborhood has very strong community development partners, including Near Northwest Neighborhood Inc., a community development corporation (CDC) that has been the lead housing developer in the neighborhood since 1974. The market conditions are beginning to change in the neighborhood just east of the cluster, and that momentum could be leveraged by a future land bank.

The cluster of properties below Lincoln Way are in the Lincoln Park neighborhood. This neighborhood does not have a neighborhood plan but the City feels there are opportunities for green space and new development. A land bank could make a difference in this location due to the concentration of VAD properties, as long as it conducts intentional community engagement to identify priority end uses.

Properties in the Southeast Neighborhood

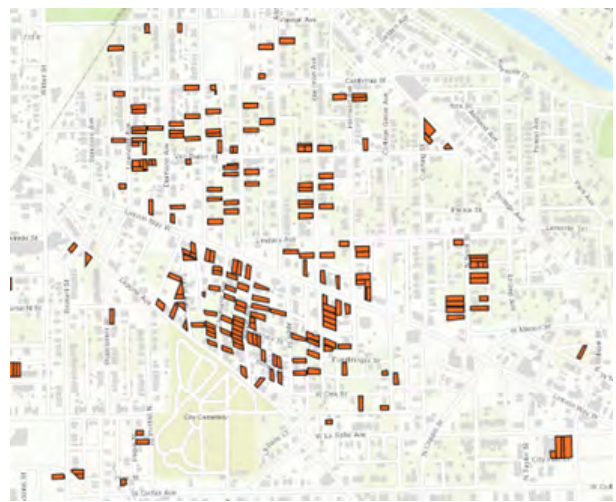
Another cluster of properties for possible land bank inventory are in the La Salle Park neighborhood. While these properties are scattered parcels, the neighborhood markets are changing. There may be opportunities for the land bank to cost-effectively address these scattered sites, which will be critical during its startup years.

The City currently incurs the costs of routine maintenance of these properties and is responsible for responding to immediate issues, such as dumping. In addition to draining public resources, the owners of these lots are not paying property taxes. Once transferred, the land bank would be responsible for maintaining the properties and finding new, responsible owners.

3. Transfers of County-owned Vacant Lots

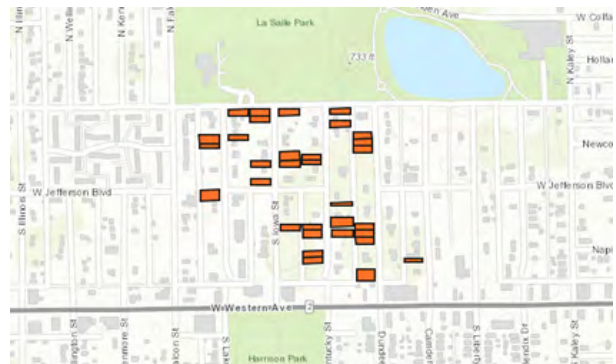
St. Joseph County owns around 115 vacant lots that currently serve no public purpose (such as a park, recreation trail, or storm water retention area). Most of these lots came into the County's ownership during the 1990s when the County took title to properties that were not sold at the County Commissioners' Certificate Sale. Most of these lots are in the City's west side neighborhoods. County leaders expressed interest in exploring opportunities to transfer properties from the County's inventory to the land bank. A similar exercise of identifying parcels that are good candidates for the land bank could be completed with the County's inventory.

VAD Properties in Near Northwest and Lincoln Park



Source: City of South Bend

VAD Properties in Southeast



Source: City of South Bend

County-Owned Vacant Lots



Source: St. Joseph County

Recommendations

- A. **Review the tax certificate list to determine which certificates are stuck in the tax sale cycle and are good candidates for land bank intervention.** Under the Indiana Land Bank Act, the land bank has six months to request a transfer of properties for which the County holds tax certificates or tax deeds, unless a different timeline is agreed to. Depending on how much tax certificate data and information is accessible and can be easily analyzed, the County and land bank might consider extending the period for this initial review and transfer to set the land bank up for success.
- B. **Evaluate existing public inventories and prioritize properties to transfer to the land bank.** There are many financial benefits to transferring publicly held inventory to the land bank. These properties are not generating tax revenue, yet the City and County must incur the costs of maintenance and responding to recurring issues, like illegal dumping. Once transferred, the land bank would be responsible for maintenance and with finding new, responsible owners for these properties.

Decision Point #6: Future Inventory

There appear to be several opportunities for a land bank to acquire properties through the tax sale process in the future:

Option 1: Purchase Tax Certificates at First Tax Sale

The land bank could purchase a property's tax certificate at the County's initial tax sale, and then obtain a tax deed to the property if the owner does not redeem within one year. The minimum bid at this sale is the amount of back taxes, assessments, penalties, and costs, however the land bank would be competing with private buyers and will likely pay more than the minimum bid.

Option 2: Request the Transfer of Unsold Tax Certificates

If the land bank is a governmental entity and the tax certificate does not sell at the initial tax sale and the owner does not redeem within 120 days, then it appears the County could obtain a tax deed to the property and then transfer the tax deed to the land bank.

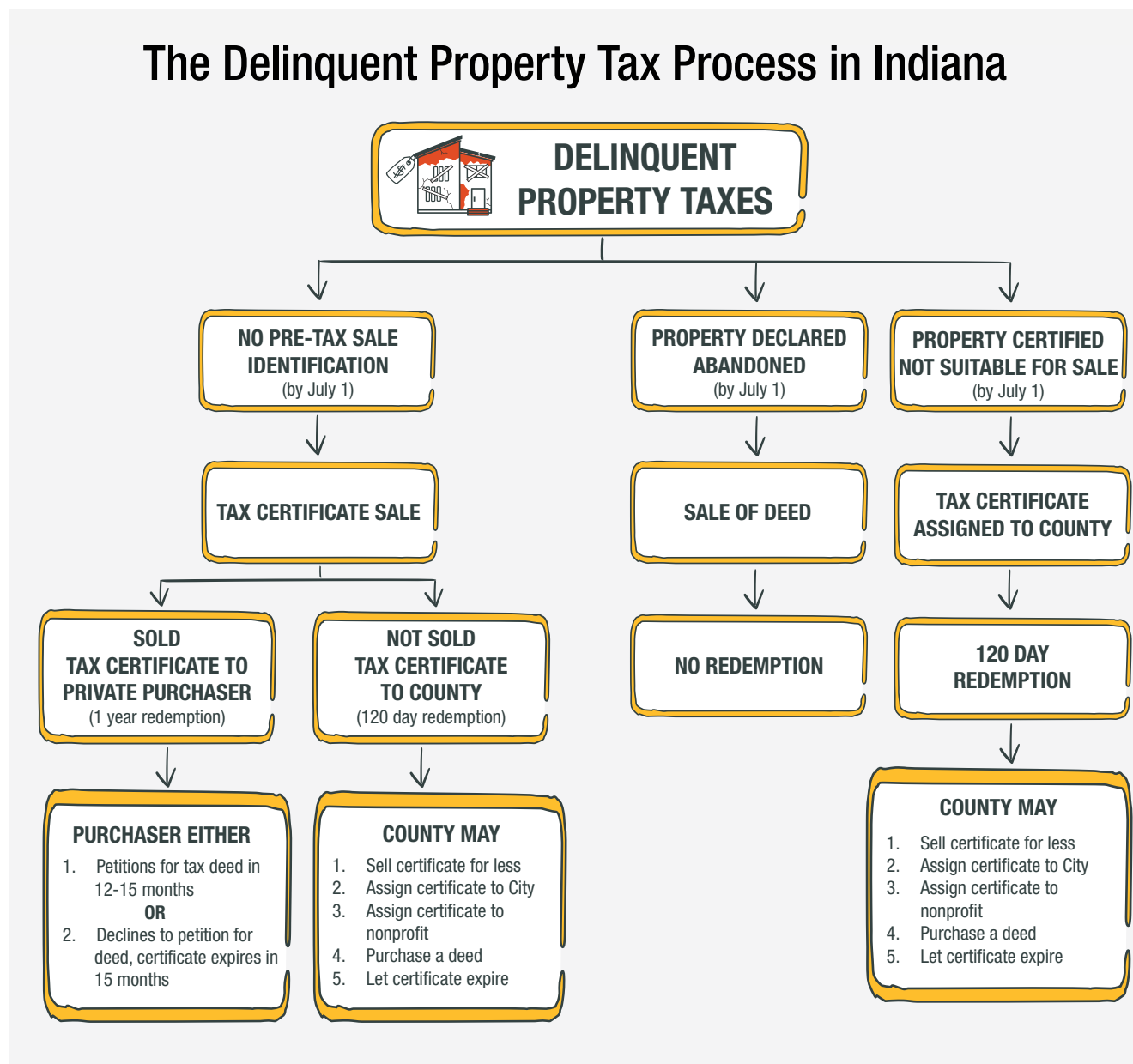
If the land bank is a nonprofit and the tax certificate does not sell at the initial tax sale, and the owner does not redeem within 120 days, then the County could transfer the tax certificate or tax deed to the land bank, after a public hearing and passage for a resolution.³³ There may be opportunity to specify the terms of the transfer of certificates or deeds to a nonprofit land bank via the interlocal agreement at the outset, or via a subsequent interlocal agreement, therefore eliminating the need for a resolution at every transfer request. This is the current practice of the Evansville Land Bank Corporation and Vanderburgh County, which creates a more equitable, efficient, and effective process.

Option 3: Purchase Tax Certificates at County Commissioners' Certificate Sale

In communities where the County is not working in partnership with a land bank, the land bank could purchase the tax certificate at the County Commissioners' Certificate Sale and then obtain a tax deed to the property if the owner does not redeem within 120 days. There is no statutorily required minimum bid at this sale.

33 IC § 6-1.1-24-6.7.

There are other lesser-used tools in Indiana for communities to acquire tax-delinquent properties that may be worth exploring (e.g., declaring a property abandoned or certifying a property as Not Suitable For Sale (NSFS)), further explained in [Appendix E](#).



Graphic by J Original Designs / Copyright Center for Community Progress, 2023

Recommendations

- A. **Consider bidding on targeted properties at the first tax sale, in limited circumstances.** A land bank has the authority to bid on tax certificates during the fall tax sale. However frequent bidding at the tax sale will likely be cost-prohibitive for a land bank, given the starting bid price includes all delinquent taxes and municipal liens. There may be circumstances that would compel a land bank to make a strategic bid at a tax sale with the intention of acquiring a targeted property, such as targeting a parcel that is a piece to a larger site assemblage plan.

B. Develop a systematized process to transfer deeds for properties that do not sell at the first tax sale to the land bank. Tax liens not sold at the first tax sale are ideal candidates for land bank intervention and should be reviewed for potential transfer. In line with previous recommendations to form the land bank as a nonprofit, the County should foreclose on the tax certificate that did not sell at the initial tax sale and then transfer the tax deed to the land bank.³⁴ Given the County has already notified the interested parties of the property's inclusion in the tax sale, they are in a prime position to complete the final title work and take the deed to the property. The property can then be transferred to the land bank with clear, marketable title.

The County and City might consider establishing a process via the interlocal agreement to ensure transfers occur swiftly and that there is understanding and agreement about how the transfer will work. An established transfer process could reflect:

- The County shares a list of tax certificates not sold at the initial tax sale within 15 days of sale.
- The land bank reviews the list of properties and identifies properties of strategic interest. The land bank requests the transfer of those properties after the 120-day redemption period has lapsed.
- Within 90 days of that request transfer, the County transfers the tax deed to the land bank.

Given the land bank's role as the responsible steward and the need to use its limited funding on maintenance, land assembly, and transferring properties to new owners, these transfers should be completed at a nominal cost, or at a maximum cover the County's expense.

C. Consider bidding at the County Commissioners' Certificate Sale if there is no systemized process for deed or certificate transfers from the County. In the absence of a land bank getting an opportunity to acquire certificates prior to the County Commissioners' Certificate Sale, that land bank could actively bid at the sale. In cases where the purchase price is low (for example, the bidding price for vacant lots at the certificate sale starts at \$25) the land bank may be able to acquire certificates and ultimately the tax deed to the property. The land bank's ability to be competitive in this system, however, is dependent on the ultimate purchase price of the certificates.

D. Accept and/or request the transfer of publicly owned properties from the City and County. The land bank can continue to receive transfers of properties from the City and County on an ongoing basis.

E. Work with the City to roll unpaid code liens onto the annual tax bill. As described in Section 2: The Cost of the Status Quo, the City sends unpaid code liens to a collection agency with limited (but not atypical) collection results. Rolling these costs onto the annual tax bill and ensuring all public liens are reflected in the minimum bid at the first tax sale could allow for two outcomes. First, if the certificate is sold at the first tax sale the City will be repaid the expenses it incurred. Or, if the certificate is not sold, then the property is transferred to the land bank which will serve as the responsible steward moving forward.

³⁴ Alternatively, the County could transfer the tax certificate to the land bank, which would be responsible for completing the title work and petitioning the court for the tax deed to the property.

Field Spotlight: City-County Land Bank in Evansville

In Evansville, strong political leadership united the City and County around a common goal for addressing vacancy and abandonment. The City established the Evansville Land Bank, a nonprofit entity. Subsequently, the City and County entered an interlocal agreement outlining the process for the County to transfer unsold tax certificates to the land bank. Each year after the first tax sale, the County shares the list of unsold certificates and provides the land bank with an opportunity to request the transfer of those tax certificates before the County Commissioner's Certificate Sale. The County then proceeds with all requisite title work and transfers the property with clear title to the land bank at a set cost of \$500. This partnership, and dedicated public funding, has led to major wins in the land bank's first years of operation. Early on the City provided \$1.7 million and continues to contribute \$250,000 annually to support land bank operations. The land bank also works closely with local affordable housing developers to support new construction, thanks largely to the City's Affordable Housing Trust Fund.

Learn more at <https://www.evansvillegov.org/city/department/index.php?structureid=296>.

Decision Point #7: Capacity and Staffing

The staffing and capacity a land bank needs should directly reflect the scale of inventory and scale of operations the land bank is expected to manage. During startup the land bank will need to develop a staffing plan, address immediate operational needs, and cultivate partnerships to carry out its work.

Staffing

Many land banks rely on shared staffing of either a governmental department that deals directly with real estate transactions and housing development, or in conjunction with a mission-aligned nonprofit.³⁵ Though there are advantages for sharing staff and organizational infrastructure, including potential cost-saving and ability to leverage institutional knowledge, it may be unclear to the public what the difference is between the responsibilities and functions of the local government and a land bank.

How many staff does the average land bank have?

Land banks' staffing structures vary widely and depend on the inventory and scale of operations. On average, land banks employ the equivalent of 3.5 full time employees and contract with the equivalent of 4 additional support positions.³⁶ The numbers below are simply a reference point, demonstrating the variety of staffing needs based on programming, partnerships, availability of resources, and other roles a land bank plays in the community.

Examples of land bank staffing capacity relative to inventory^{37 38}

Name of Land Bank	Number of staff (listed as FTEs)	Staffing arrangement	Approx. Property Inventory
Tri-COG Land Bank (PA)	6.5	Shared with Council of Governments	50
Greater Syracuse Land Bank (NY)	8.5	Dedicated Staff	800
Cuyahoga County Land Bank (OH)	36	Dedicated Staff	1,000

36 Community Progress, National Land Bank Survey, 2022.

37 To learn more about Indiana land banks' staffing and capacity visit page 20 of this report.

38 Data pulled from Community Progress, National Land Bank Survey, 2023 with the exception of the Cuyahoga County Land Bank property inventory which was taken from list of properties located on their website, <https://cuyahogalandbank.org/all-available-properties/>.

Immediate Operational Needs

Another common strategy is contracting with private entities to support critical land bank operations, such as information technology, legal expertise, and accounting. Land banks also contract with nonprofits or local companies that can perform services like property maintenance and management.

Partnerships

Simply put, a land bank cannot do it all alone. The most successful land banks partner closely with other mission-aligned organizations and nonprofits, like community land trusts and urban farming organizations. Land banks

35 The Indiana Land Bank Act allows for land banks to directly employ, or otherwise contract with, any staff deemed necessary to carry out its duties and responsibilities. IC § 36-7-38-18 clarifies that land bank staff are not employees of the eligible unit that established the land bank, and clarifies how the land bank could consider employee benefits to the land bank. Our interpretation of this provision does not preclude the land bank from contracting with the eligible governmental unit for staffing services.

leverage their ability to provide land at little to no cost to support local needs like quality, affordable housing and access to healthy food.

There are many examples of innovative land bank partnerships across the country delivering outcomes that meet community priorities. However, given virtually all communities face an increasing deficit of quality, permanent affordable housing, Community Progress has spent significant time exploring partnerships between land banks and community land trusts.³⁹

³⁹ Kim Graziani, Land Banks and Community Land Trusts: Partnering to Provide Equitable Housing Opportunities Now and for Future Generations, (Center for Community Progress, December 2021), <https://communityprogress.org/publications/land-banks-and-community-land-trusts-2/>.

Field Spotlight: How the Albany County Land Bank and Albany Community Land Trust Lead with Racial Equity

Albany, New York has the second largest homeownership gap between Black and white households in America.⁴⁰ In June 2020, the Albany County Land Bank's (ACLB) Board of Directors established the Underserved Communities Committee to address racial disparities created by decades of discriminatory housing and lending practices, exacerbated in the COVID-19 pandemic.

ACLB developed the Equitable Ownership Program to increase homeownership in communities that have historically experienced discriminatory and inequitable practices and policies. The program draws upon ACLB's flexibility, partnerships, and available resources to eliminate many barriers first-time homebuyers encounter when buying in disinvested neighborhoods. Through this program, ACLB seeks to reduce the amount of capital lower-income individuals or families need by implementing the following: selecting properties that need less rehabilitation; selling the property for 50 percent or less of the market value; and partnering with a regional community development financial institution (CDFI), Home HeadQuarters, Inc. that prequalifies buyers, serves as the lender for both purchase and rehab financing, and/or provide closing cost assistance. Albany Community Land Trust (ACLT) and other local organizations identify eligible program participants who receive a scope of work and access to a building specialist to help with rehabbing the vacant building. The Equitable Ownership Program is a model for how land banks and CLTs can leverage their networks to foster equitable development and promote homeownership in disinvested communities.

Learn more at <https://www.albanycountylandbank.org/eopp>.

⁴⁰ Alanna McCargo and Sarah Stochak, "Mapping the Black Homeownership Gap," UrbanWire (blog), Urban Institute, February 18, 2018, <https://www.urban.org/urban-wire/mapping-black-homeownership-gap>.

Exploring the potential of a trusted third party to staff and manage the land bank

Throughout our conversations with stakeholders, the City and County expressed interest in exploring a trusted third party to administer the land bank. Engaging a trusted third party could ensure the land bank is an independent yet flexible and transparent organization. It also allows the land bank to use an existing organization's staff, stakeholder relationships, and resources to fulfill its mission.

Stakeholders highlighted the Michiana Area Council of Governments (MACOG) as a potential entity to manage the land bank. MACOG is a voluntary organization of local governments that supports activities related to economic development, environment, transportation, transit, and other issues that impact each member and the region. Over the last 40 years, MACOG has developed several programs and the expertise to operate them.

Since 2019, MACOG has been the recipient and administrator of EPA funding to support the cleanup and revitalization of brownfields throughout the region. Notably, the EPA assessment program has enabled the City of Warsaw to break ground on a new affordable housing development at the former Arnolt Site. It has also enabled environmental assessments for the Ward Baking Company in South Bend, a space that will be repurposed for mixed used retail and office spaces with the hopes of anchoring revitalization in the Near Northwest neighborhood. Through their community and economic development programs, MACOG also developed substantial expertise in community engagement and community planning.

While MACOG operates several aligned programs, the organization does not yet work on issues related to property acquisition, holding, and disposition. Therefore, they will need to build those skills, expertise, and the organizational infrastructure to operate the land bank. However, MACOG's role as a convener between local government entities positions the organization to serve as potential trusted third party to oversee the land bank.

Recommendations

- A. **Consider entering into an agreement to receive staffing services from an existing entity like MACOG.** Continued discussion should be had regarding existing entities that could serve this role, however MACOG is in a unique position to administer the land bank on behalf of the City and the County. It was clear MACOG had developed trusted relationships with both government entities and, as an organization founded on intergovernmental cooperation, can convene and facilitate the operations of the land bank. To fill this role, MACOG will need to expand its capacity and skills to carry out the specialized land bank. While MACOG is well known among elected and administrative leaders at the City and County, the organization is less known among residents and community stakeholders. If MACOG is selected to administer the land bank, there will need to be intentional outreach and educational efforts to ensure residents and community stakeholders know and understand MACOG's role.
- B. **Establish recurring meetings to discuss, strategize, and align land bank interventions and share knowledge and expertise.** The City, through their existing acquisition and holding strategies, has developed broad expertise and deep institutional knowledge related to addressing VAD properties in South Bend. Transferring those insights to the land bank will be hugely beneficial in its first years of operation. In addition, a land bank will only succeed if there are efforts to prevent additional vacancy and abandonment so aligning the work of the land bank with NSE will be critical. Designated City and land bank employees should meet regularly at first. The frequency of such meetings can be reduced as the land bank becomes more established.
- C. **Contract with a nonprofit or locally owned company with expertise in property management to maintain land bank properties.** Ensuring properties owned by the land bank are maintained and code-complaint is critical, especially in its foundational years, to build trust with the community. The land bank should establish agreements for these services at the outset.
- D. **Develop partnerships with local nonprofits to acquire and transform land bank properties to address the evolving and expansive needs of the community.** The land banks that are most

successful understand and hone their unique niche of acquiring and stewarding the most harmful properties to provide land to organizations that meet community needs, like community land trusts and urban farming organizations.

Decision Point #8: Funding

Many communities that establish a land bank hope for “self-sustaining” operations. Unfortunately, our extensive field experience shows us this is largely a fantasy. As discussed in Section 2, the Cost of the Status Quo, most VAD properties the land bank will address have been stuck in a cycle of deterioration, churning through the tax sale for years, underwater in value, and unattractive to the private market. While many land banks generate some revenue from selling properties to support their operations, it is not enough to cover their entire operating expenses in a way that is responsible and benefits communities. Land banks always need some level of support—whether direct support from the public, private, philanthropic sectors, and in-kind support from local governments and partners—proportional to the scale and scope of vacancy and abandonment the land bank is expected to address.⁴¹

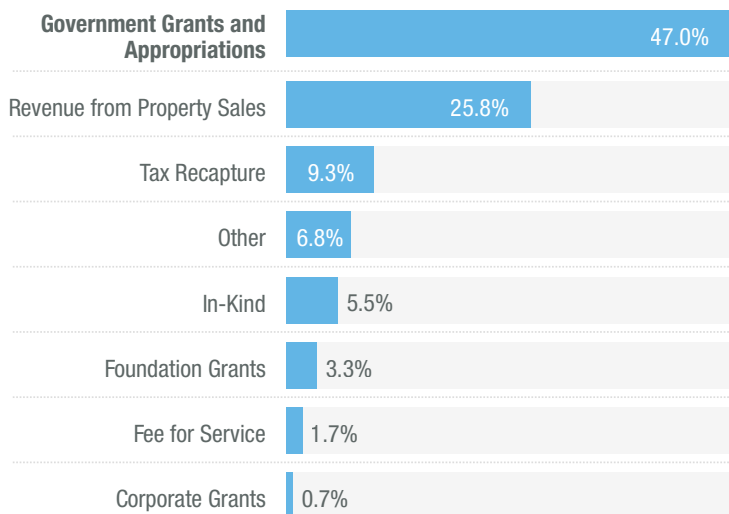
Land banks most often operate in neighborhoods and communities where the costs of property repairs or developing new housing far outweighs the value of the property. These market challenges can be further complicated when the land bank is intentionally focused on creating quality, affordable homeownership opportunities. Such is the case with South Bend, where the appraisal gap between construction costs and sales price is evident in most neighborhoods. Further, many of the new constructions are unaffordable to the average South Bend resident.⁴²

Land banks also need resources to maintain properties, which means frequent maintenance of vacant lots, snow removal, boarding and securing structures, and demolishing properties that are past the point of repair. For a land bank to be a responsible steward, it needs funding proportionate to the scale of properties it is expected to address.

Unfortunately, the Indiana Land Bank Act does not include a provision for a dedicated funding source, though there has been advocacy to make changes and provide land banks with more sustainable funding opportunities. The law does, however, contemplate a few opportunities for land banks to raise some revenue. Below is an overview of the various funding sources for land banks, both explicitly stated in the Indiana Land Bank Act, and opportunities afforded through the nature of the organization.

How are Land Banks Across the Country Funded?

Nationally, almost half of all funding land banks received came from a governmental source.



Source: National Land Bank Network Survey, 2022.

⁴¹ Payton Heins and Tarik Abdelazim, *Take it to the Bank: How Land Banks Are Strengthening America’s Neighborhoods* (Center for Community Progress, 2014), <https://communityprogress.org/publications/take-it-to-the-bank-2>.

⁴² *Housing South Bend: Opportunities for Transformative Investment* (Rice University Kinder Institute for Public Research, 2019), <https://southbendin.gov/wp-content/uploads/2022/10/KI-Research-ReportHousing-South-Bend-FINAL.pdf>.

How is a Land Bank Funded?



Direct Support from Local Governments

Most land banks rely on some form of public funding to support their operations. This can come in various forms, such as an annual allocation from the local government's general fund budget, membership dues from municipalities that may "opt-in" to be a member of the land bank, and support through existing grants programs like CDBG.

Revenue from Property Sales

The amount of revenue land banks generate from sales depends on the market value of the properties, types of properties they are selling (e.g., residential structures or vacant lots) conditions of the properties, and subsidies needed to sell properties in line with priorities (e.g., targeting specific income levels). In South Bend and St. Joseph County, most of the properties the land bank will be selling are vacant lots. Pricing of these lots will need to take into consideration the development costs needed to put these properties back to use in line with community goals, therefore they will likely not be a large revenue source for the land bank.



Tax Recapture



In Indiana, a land bank can receive a certain percentage of taxes (between 25-50 percent) collected on property sold by the land bank for a determined period as agreed to by the respective taxing bodies. For example, the County and school district could agree to a tax recapture of 50 percent for five years. This would mean that after the land bank sells a property and it is in a taxable status, 50 percent of the taxes would be remitted to the land bank and 50 percent of the taxes would be distributed among the other taxing bodies for five years. After this period, 100 percent of the taxes would be sent to the respective taxing bodies.

Philanthropic and Private Funding

Many land banks are funded by philanthropic foundations and private local entities to support start up and/or ongoing programming.



Borrow and Issue Bonds

Land banks can borrow funds to undertake a wide variety of activities such as larger scale repair and rehabilitation.

In-kind Support

Many land banks rely on in-kind support to sustain operations. This may include shared staffing with an existing governmental department or nonprofit, or maintenance services provided by the local government department that maintains publicly owned properties. Importantly, land banks often rely on a no-cost transfer of properties from the local governmental unit responsible for the tax sale process.



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Field Spotlight: Creating Partnerships to Advance Affordable Housing

The Newark Land Bank (NLB), just a few years into operation, launched a first-of-its kind Section 8 Homeownership Conversion program. With just a 23 percent homeownership rate in Newark, NLB prioritized homeownership through its disposition processes. NLB worked with the Newark Housing Authority, the entity that manages HUD's Section 8 Housing Choice Voucher (HCV) program for the City, to establish a process to sell newly rehabbed single-family homes to Newark residents that hold HCVs. The HCV program allows for voucher payments to be applied to a mortgage lender in a similar way to how they are paid to landlords. NLB partnered with local philanthropies to support the rehabilitation of the properties and with the Neighborhood Assistance Corporation of America to provide the mortgages. The Section 8 Homeownership Conversion Program demonstrates that coordinating various public, private, and philanthropic partners around a single opportunity can help residents build wealth.

Learn more at <https://landbank.investnewark.org/section8.php>.

Recommendations

- A. **Consider committing annual funding to the land bank (City of South Bend).** For the land bank to achieve community goals, it will need dedicated support from local government. Given that most VAD properties are located within South Bend, and the City is bearing the brunt of their costs, it will be incumbent on the City to provide financial support to the land bank since this new entity will now conduct maintenance and remediation. The amount of funding should be proportionate to the scale of VAD properties the land bank will be expected to address.
- B. **Consider committing startup capital for the land bank and identifying opportunities for future support (St. Joseph County).** While most of the costs associated with addressing VAD properties lie within South Bend, the County will benefit greatly from land bank intervention in the form of new property tax revenue, increased real estate values, and increased community safety. The County should consider providing seed funding to help support the land bank in its early years to recognize the land bank's financial and community benefits to the County. After the initial capital, the County should continue to explore opportunities to support the land bank through direct support or through other funding opportunities, such as no-cost transfer of properties from the tax sale.
- C. **Consider transferring tax deeds to the land bank at a cost that covers legal expenses, or tax certificates at no charge after the initial six-month period has expired (St. Joseph County).** It is critical for the County to recognize the land bank's unique role in stewarding properties that otherwise burden taxpayers. Given the land bank's role as the responsible steward and its need to use its limited funding on maintenance, land assembly, and transferring property to new, responsible owners, these transfers should be at no cost. Additionally, St. Joseph County should consider replicating practices in Vanderburgh County, which conducts the requisite title work for properties identified by the Evansville Land Bank and transfers the properties with clear, insurable title for a set price of \$500.
- D. **Structure the interlocal agreement to provide 50 percent of property taxes to the land bank for five years from properties acquired and sold by the land bank.** Land bank intervention is the primary vehicle to address the costly impacts of the status quo. Without a land bank, these properties will continue to decline and drain public resources. The tax recapture provision in the Indiana Land Bank Act is the only funding source identified for land bank operations and should be leveraged to support operational costs. Most land bank legislation across the country that provides for tax recapture sets the formula at providing 50 percent of taxes to the land bank for five years after it has put properties back on the tax rolls.⁴³
- E. **Develop a fundraising strategy and solicit commitments from philanthropic partners.** It is common for land banks to seek financial support from philanthropic partners during their start-up phase. Supporting a land bank in this initial phase can be an exciting opportunity for a philanthropic partner, particularly when establishing specific land bank programs focused on issues like community engagement, public health and safety, affordable housing, and workforce development.

⁴³ Michigan, New York, Pennsylvania, and West Virginia allow for tax recapture of 50 percent for five years. Georgia allows for up to 75 percent for five years and Missouri allows for 100 percent (minus fees) for three years.

Conclusion

It has been an honor to work with the City of South Bend, St. Joseph County, and the many community stakeholders who shared insights, data, and inspiration for the future of the region. Building on South Bend's distinctive history and track record in addressing VAD properties, a land bank could be a valuable tool to further equitable community revitalization.

When sharing this report internally and externally, please keep the following points in the forefront of your discussions:

- The success of a land bank in South Bend and St. Joseph County hinges on the **commitment from both local governments to work together** and realize the common benefits to addressing VAD properties. The financial and human costs to maintaining the status quo are not sustainable.
- It will be critical to continue **engaging and building relationships with residents who are most impacted by VAD properties**. The City and County can maximize its housing objectives by expanding partnerships with local nonprofits and affordable housing developers and creating an inexpensive, accessible pipeline of property.
- A land bank will be most effective if there is coordination of **existing tools to prevent further decline, like delinquent property tax enforcement, code enforcement, and consideration of new tools not yet available in state law to bypass the harmful practice of selling delinquent property taxes to private purchasers**. Given the fiscal and community benefits of a land bank, the Indiana Land Bank Act should continue to be strengthened to improve access to tax-delinquent properties, allow land banks to intervene before speculators, and help land banks access reliable funding.

We hope this report will provide the requisite information to move towards creating a land bank while continuing to invest in preventing more properties from decline. The residents of South Bend and St. Joseph County are lucky to have such a thoughtful and engaged group of public and community leaders committed to a more equitable future.

Appendices

Appendix A: List of Recommendations

Decision Point #1: Land Bank Formation and Governance

Recommendations

A. **Consider forming a land bank via interlocal agreement between the City of South Bend and St. Joseph County.**⁴⁴ While most VAD properties exist within South Bend, the County oversees the delinquent tax enforcement process, which will be the primary vehicle for the land bank to get its inventory. The critical need for cooperation between the two entities to successfully address VAD properties cannot be understated. An interlocal agreement can facilitate the cooperation required for a land bank to successfully operate. Such an interlocal agreement would need to comply with the requirements of the Indiana Land Bank Act and Indiana's laws governing interlocal agreements.⁴⁵ Indiana's Land Bank Act and laws governing interlocal agreements require that the agreement include, at a minimum:

- i. Name of the land bank
- ii. Its duration
- iii. Its purpose
- iv. Board composition including
 - Number of directors, which must be between seven and nine
 - The appointing authority of each member
 - Any directors that will serve as ex officio members

In addition to these legal requirements, the agreement should also include:

- i. Whether the land bank will be established as a public entity or nonprofit (discussed in Decision Point #2)
- ii. The process for acquiring properties
 - Initial inventory (discussed in Decision Point #5)
 - Future inventory (discussed in Decision Point #6)
- iii. The process for holding and disposing of property
- iv. Staffing (discussed in Decision Point #7)
- v. Financing options (discussed in Decision Point #8)
- vi. The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination

B. **Be responsive to address properties throughout St. Joseph County.** While it is anticipated most of its work will occur in South Bend, a land bank formed in partnership with the County can, and should, be

⁴⁴ As an alternative, the City could establish a land bank to operate within the City of South Bend and subsequently enter into an interlocal agreement with St. Joseph County that establishes a mechanism to transfer tax certificate to the land bank. This is the process has proved to be efficient and efficient for the Evansville Land Bank, but limits the geography of the land bank to South Bend.

⁴⁵ Ind. Code § 36-1-7-1, *et seq.*

responsive to VAD properties in other communities as needed. According to County leaders, approximately 15 properties outside South Bend were demolished in 2022 based on the annual budget. This amount of demolition activity by the County has been consistent over the last few years.

- C. **Prioritize board members with relevant expertise and who represent the communities where the land bank will work.** There is broad discretion in shaping the composition of the board when a land bank is created through interlocal agreement. The appointment of members can be made by various members of local government (e.g., city council, mayor, county commission, treasurer, etc.). All board members must have “demonstrated competency in an occupation or discipline that is relevant to the primary purpose of the land bank.”⁴⁶ Ideally, these members have experience in housing and community development, community engagement, and legal expertise in real estate transactions. For example, board appointments for the City and County could comprise:
- i. Three directors appointed by the City legislative body
 - Two should represent neighborhood-based groups who work in neighborhoods most impacted by vacancy and abandonment
 - ii. Two directors appointed by the City Mayor
 - iii. Two directors appointed by the County legislative body
 - One should represent the municipality (excluding South Bend) with the most vacant, tax-delinquent properties
 - iv. Two appointments by the Board of Directors
 - Ideally, these appointments reflect any additional needed expertise, such as housing and community development, community engagement, and legal expertise in real estate transactions
- D. **Consider forming an advisory committee of residents, partner organizations, and allied groups, particularly those that represent communities most impacted by vacancy and abandonment.** Members of this committee might include community development corporations or trusted nonprofits (e.g., groups focused on housing affordability, urban gardening, or environmental justice).

Decision Point #2: Type of Organization

Recommendations

- A. **Consider establishing the land bank as a nonprofit entity.** There are a number of reasons why a land bank established as a nonprofit would be advantageous, including:
- i. Land banks operating as nonprofits may have access to more funding opportunities from philanthropic and private supporters.
 - ii. In Indiana, all existing land banks have been formed as nonprofit entities. This trend will allow for a newly formed land bank to draw on existing processes and lessons learned from its counterparts across the state.
 - iii. A land bank that operates as a nonprofit outside of the public authorities of the City and County may be more flexible and responsive to community needs and goals. Some stakeholders expressed that a land bank established as a nonprofit would be seen as a more trusted partner, which is foundational to a land bank’s success.
- B. **Designate the City as the governmental entity responsible for establishing the nonprofit.** To form a land bank as a nonprofit, and via interlocal agreement between the City and County, *one* of the local governmental entities entering into the agreement must create a land bank pursuant to the Indiana Land Bank Act. Given the vast majority of the land bank’s activity will occur within South Bend, the City should take the responsibility for conducting the administrative and legal work to form the nonprofit. The formation of the land bank by the City will not affect the County’s role in appointing board members or other items stipulated in the interlocal agreement.

⁴⁶ IC § 36-7-38-4.

Decision Point #3: Priorities and Policies

Recommendations

- A. **Immediately set priorities, policies, and procedures for all land bank acquisitions and dispositions.** Priorities should be clear, concise, and reflect community goals and needs. Those policies should then guide the land bank's operations to reach those priorities. While the board of directors will ultimately be responsible for approving these priorities and policies, an advisory committee, as discussed in Decision Point #1, should also have the opportunity to provide guidance.
- B. **Revisit priorities, policies, and procedures regularly to ensure they reflect community needs and land bank capacity.** Many land banks organize annual or biannual retreats to reflect on the progress of the land bank in addition to community workshops to hear and incorporate resident and community stakeholders' needs.

Decision Point #4: Tax Sale Data Management and Analysis

Recommendations

- A. **Improve data collection and management to better understand the inventory and outcomes of VAD properties cycling through the tax sale system.** By efficiently collecting, integrating, and analyzing multiple data points, the City, County, and land bank will better understand which properties will benefit from land bank intervention. This system can also help the land bank prioritize its limited resources to address the properties causing the most harm. The City and County should annually overlay data related to tax delinquency and properties undergoing continuous enforcement actions to determine which properties have the highest public costs to potentially transfer to the land bank.

Decision Point #5: Initial Inventory

Recommendations

- A. **Review the tax certificate list to determine which certificates are stuck in the tax sale cycle and are good candidates for land bank intervention.** Under the Indiana Land Bank Act, the land bank has six months to request a transfer of properties for which the County holds tax certificates or tax deeds, unless a different timeline is agreed to. Depending on how much tax certificate data and information is accessible and can be easily analyzed, the County and land bank might consider extending the period for this initial review and transfer to set the land bank up for success.
- B. **Evaluate existing public inventories and prioritize properties to transfer to the land bank.** There are many financial benefits to transferring publicly held inventory to the land bank. These properties are not generating tax revenue, yet the City and County must incur the costs of maintenance and responding to recurring issues, like illegal dumping. Once transferred, the land bank would be responsible for maintenance and with finding new, responsible owners for these properties.

Decision Point #6: Future Inventory

Recommendations

- A. **Consider bidding on targeted properties at the first tax sale, in limited circumstances.** A land bank has the authority to bid on tax certificates during the fall tax sale. However frequent bidding at the tax sale will likely be cost-prohibitive for a land bank, given the starting bid price includes all delinquent taxes and municipal liens. There may be circumstances that would compel a land bank to make a strategic bid at a tax sale with the intention of acquiring a targeted property, such as targeting a parcel that is a piece to a larger site assemblage plan.
- B. **Develop a systematized process to transfer deeds for properties that do not sell at the first tax sale to the land bank.** Tax liens not sold at the first tax sale are ideal candidates for land bank intervention and should be reviewed for potential transfer. In line with previous recommendations to form the land bank as a nonprofit, the County should transfer the tax deed that did not sell at the initial tax sale to the land bank.⁴⁷ Given the County has already notified the interested parties of the property's inclusion in the tax sale, they are in a prime position to complete the final title work and take the deed to the property. The property can then be transferred to the land bank with clear, marketable title.

The County and City might consider establishing a process via the interlocal agreement to ensure transfers occur swiftly and that there is understanding and agreement about how the transfer will work. An established transfer process could reflect:

- The County shares a list of tax certificates not sold at the initial tax sale within 15 days of sale.
- The land bank reviews the list of properties and identifies properties of strategic interest. The land bank requests the transfer of those properties after the 120-day redemption period has lapsed.
- Within 90 days of that request transfer, the County transfers the tax deed to the land bank.

Given the land bank's role as the responsible steward and the need to use its limited funding on maintenance, land assembly, and transferring properties to new owners, these transfers should be completed at a nominal cost, or at a maximum cover the County's expense.

- C. **Consider bidding at the County Commissioners' Certificate Sale if there is no systemized process for deed or certificate transfers from the County.** In the absence of a land bank getting an opportunity to acquire certificates prior to the County Commissioners' Certificate Sale, that land bank could actively bid at the sale. In cases where the purchase price is low (for example, the bidding price for vacant lots at the certificate sale starts at \$25) the land bank may be able to acquire certificates and ultimately the tax deed to the property. The land bank's ability to be competitive in this system, however, is dependent on the ultimate purchase price of the certificates.
- D. **Accept and/or request the transfer of publicly owned properties from the City and County.** The land bank can continue to receive transfers of properties from the City and County on an ongoing basis.
- E. **Work with the City to roll unpaid code liens onto the annual tax bill.** As described in Section 2: The Cost of the Status Quo, the City sends unpaid code liens to a collection agency with limited (but not atypical) collection results. Rolling these costs onto the annual tax bill and ensuring all public liens are reflected in the minimum bid at the first tax sale could allow for two outcomes. First, if the certificate is sold at the first tax sale the City will be repaid the expenses it incurred. Or, if the certificate is not sold, then the property is transferred to the land bank which will serve as the responsible steward moving forward.

⁴⁷ Alternatively, the County could transfer the tax certificate to the land bank, which would be responsible for completing the title work and petitioning the court for the tax deed to the property.

Decision Point #7: Capacity and Staffing

- A. **Consider entering into an agreement to receive staffing services from an existing entity like MACOG.** Continued discussion should be had regarding existing entities that could serve this role, however MACOG is in a unique position to administer the land bank on behalf of the City and the County. It was clear MACOG had developed trusted relationships with both government entities and, as an organization founded on intergovernmental cooperation, can convene and facilitate the operations of the land bank. To fill this role, MACOG will need to expand its capacity and skills to carry out the specialized land bank. While MACOG is well known among elected and administrative leaders at the City and County, the organization is less known among residents and community stakeholders. If MACOG is selected to administer the land bank, there will need to be intentional outreach and educational efforts to ensure residents and community stakeholders know and understand MACOG's role.
- B. **Establish recurring meetings to discuss, strategize, and align land bank interventions and share knowledge and expertise.** The City, through their existing acquisition and holding strategies, has developed broad expertise and deep institutional knowledge related to addressing VAD properties in South Bend. Transferring those insights to the land bank will be hugely beneficial in its first years of operation. In addition, a land bank will only succeed if there are efforts to prevent additional vacancy and abandonment so aligning the work of the land bank with NSE will be critical. Designated City and land bank employees should meet regularly at first. The frequency of such meetings can be reduced as the land bank becomes more established.
- C. **Contract with a nonprofit or locally owned company with expertise in property management to maintain land bank properties.** Ensuring properties owned by the land bank are maintained and code-complaint is critical, especially in its foundational years, to build trust with the community. The land bank should establish agreements for these services at the outset.
- D. **Develop partnerships with local nonprofits to acquire and transform land bank properties to address the evolving and expansive needs of the community.** The land banks that are most successful understand and hone their unique niche of acquiring and stewarding the most harmful properties to provide land to organizations that meet community needs, like community land trusts and urban farming organizations.

Decision Point #8: Funding

Recommendations

- A. **Consider committing annual funding to the land bank (City of South Bend).** For the land bank to achieve community goals, it will need dedicated support from local government. Given that most VAD properties are located within South Bend, and the City is bearing the brunt of their costs, it will be incumbent on the City to provide financial support to the land bank since this new entity will now conduct maintenance and remediation. The amount of funding should be proportionate to the scale of VAD properties the land bank will be expected to address.
- B. **Consider committing startup capital for the land bank and identifying opportunities for future support (St. Joseph County).** While most of the costs associated with addressing VAD properties lie within South Bend, the County will benefit greatly from land bank intervention in the form of new property tax revenue, increased real estate values, and increased community safety. The County should consider providing seed funding to help support the land bank in its early years to recognize the land bank's financial and community benefits to the County. After the initial capital, the County should continue to explore opportunities to support the land bank through direct support or through other funding opportunities, such as no-cost transfer of properties from the tax sale.

- C. **Consider transferring tax deeds to the land bank at a cost that covers legal expenses, or tax certificates at no charge after the initial six-month period has expired (St. Joseph County).** It is critical for the County to recognize the land bank’s unique role in stewarding properties that otherwise burden taxpayers. Given the land bank’s role as the responsible steward and its need to use its limited funding on maintenance, land assembly, and transferring property to new, responsible owners, these transfers should be at no cost. Additionally, St. Joseph County should consider replicating practices in Vanderburgh County, which conducts the requisite title work for properties identified by the Evansville Land Bank and transfers the properties with clear, insurable title for a set price of \$500.
- D. **Structure the interlocal agreement to provide 50 percent of property taxes to the land bank for five years from properties acquired and sold by the land bank.** Land bank intervention is the primary vehicle to address the costly impacts of the status quo. Without a land bank, these properties will continue to decline and drain public resources. The tax recapture provision in the Indiana Land Bank Act is the only funding source identified for land bank operations and should be leveraged to support operational costs. Most land bank legislation across the country that provides for tax recapture sets the formula at providing 50 percent of taxes to the land bank for five years after it has put properties back on the tax rolls.⁴⁸
- E. **Develop a fundraising strategy and solicit commitments from philanthropic partners.** It is common for land banks to seek financial support from philanthropic partners during their start-up phase. Supporting a land bank in this initial phase can be an exciting opportunity for a philanthropic partner, particularly when establishing specific land bank programs focused on issues like community engagement, public health and safety, affordable housing, and workforce development.

⁴⁸ Michigan, New York, Pennsylvania, and West Virginia allow for tax recapture of 50 percent for five years. Georgia allows for up to 75 percent for five years and Missouri allows for 100 percent (minus fees) for three years.

Appendix B:

Stakeholders Consulted

Name	Organization	Title
Caleb Bauer	City of South Bend	Director, Department of Community Investment
Chaise Cope	City of South Bend	Senior Planner, Planning and Community Resources, Department of Community Investment
Tim Corcoran	City of South Bend	Director, Planning and Community Resources, Department of Community Investment
Sandra Kennedy	City of South Bend	Corporation Counsel
Elizabeth Maradik	City of South Bend	Chief Neighborhoods Officer, Neighborhoods, Department of Community Investment
Martin Mechtenberg	City of South Bend	Economic Empowerment Specialist, Engagement and Economic Empowerment, Department of Community Investment
Joseph R. Molnar	City of South Bend	Property Development Manager, Planning and Community Resources, Department of Community Investment
Antonius Northern	City of South Bend	Assistant Business Development Manager, Growth and Opportunity, Department of Community Investment
Troy Warner	City of South Bend	Councilperson
Kensiha Wells	City of South Bend	Director, Neighborhood Services and Enforcement, Department of Community Investment
Jim Wood	City of South Bend	Chief Inspector, Neighborhood Services and Enforcement, Department of Community Investment
Anne Mannix	Housing Matters, LLC	President
Zach Dripps	Michiana Area Council of Governments	Director of Operations & Community Development
Sofia Gladun	Michiana Area Council of Governments	Community Development Planner
Donny Ritsema	Michiana Area Council of Governments	Senior Community Development Planner
Leah Thill	Michiana Area Council of Governments	Director of Sustainability

James Turnwald	Michiana Area Council of Governments	Executive Director
Kathy Schuth	Near Northwest Neighborhood, Inc.	Executive Director
Carl Baxmeyer	St. Joseph County	St. Joseph County Board of Commissioners, President
Frank Fiota	St. Joseph County	Economic Development Planner, Department of Economic Development
Kathy Gregorich	St. Joseph County	Office Manager
Patty Henry	St. Joseph County	Property Tax Supervisor
Mike Misch	St. Joseph County	Attorney
John Murphy	St. Joseph County	Auditor
Terry O'Brien	St. Joseph County	Economic Development Planner, Department of Economic Development
Bill Schalliol	St. Joseph County	Executive Director, Department of Economic Development
Sy Barker	446 Works	Vice President
Karl King		Community Representative

Appendix C: “Fix it Up, Pay it Up, Give it Up” Framework

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

The Fix it Up, Pay it Up, Give it Up approach for VAD properties, is based on the premise that property owners have a responsibility to maintain their property so it does not harm the health and safety of their neighbors and the community. When property owners are unwilling or unable to meet this responsibility, this approach is a simple way of explaining how a range of public systems and tools can coordinate to reduce the harm VAD properties cause, that taxpayers are reimbursed for any costs incurred in securing, cleaning, or demolishing the hazardous conditions on the property, and—as a last resort—that the property is transferred to a new responsible owner. An ideal Fix it Up, Pay it Up, Give it Up approach to VAD properties is driven by robust data collection, tracking, and analysis, as well as community goals and priorities, and strategically connects housing and building code enforcement to the delinquent property tax enforcement system.

Fix It Up, Pay it Up, Give it Up



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Fix it Up

Local governments rely on housing and building code enforcement departments (code enforcement) to help monitor and identify whether VAD properties violate local property standards and to contact the owner to demand compliance.⁴⁹ If the owner fails to bring the VAD property into compliance, code enforcement should be able to quickly abate the hazardous conditions, either by cleaning up an accumulation of trash and debris, boarding up and securing the property, mowing high grass and weeds, or demolishing the structure. Key components and practices that are part of an equitable, effective, and efficient “Fix it Up” approach include:

A robust system of collecting and analyzing property and neighborhood housing market data. This can help local leaders and code enforcement comprehend the scale of the problem, assess the owner’s willingness to respond to code enforcement’s demands, and tailor interventions to compel compliance based on the likelihood they will succeed in that circumstance.

More proactive tools to monitor neighborhoods and property conditions. For example, focused code enforcement sweeps or vacant property registrations can help code enforcement address issues with VAD properties before they become a bigger problem.

Violation notices that clearly articulate the problem and outline consequences designed to motivate that owner to comply. Notices should also include information on the availability of any home repair grants or loans for lower-income owners who want to comply but lack the means to do so.

An effective and responsive nuisance abatement or demolition program. Such a program must be designed to respond to an owner’s inaction and swiftly mitigate harm to neighbors.

Pay it Up

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

Fully loaded costs are billed to the owner. Costs should include the costs of the actual abatement; any personnel or administrative hours spent inspecting the property, researching ownership, or issuing notices to address the problem; related vehicle and equipment costs; court costs; and any other relevant costs.

State and local laws should clarify a lien for any unpaid amounts takes priority over all other liens against the property, except for liens for unpaid taxes, and can be added to the property tax bill. Working with the County Treasurer and Auditor to add unpaid code enforcement or abatement costs to the property tax bill is generally the most effective way to ensure the owner will pay back the public costs in order to avoid losing the property. Alternatively, if unpaid code liens are given sufficient priority, the threat of a separate code lien foreclosure could provide sufficient motivation to pay back those costs.

Equitable resources or “offramps” available to low-income owners. Inevitably, low-income or other vulnerable owners will get caught up in the enforcement system. It is critical to build in the ability to forgive or release abatement liens to ensure those owners have a path to avoid losing their property and generational wealth and potentially invest in repairing or maintaining the property instead.

⁴⁹ The need for equitable resources to support vulnerable property owners is of much greater concern when the property is occupied, as opposed to vacant, though great care must always be taken to ensure individuals, families, and heirs are not stripped of generational wealth or equity.

Give it Up

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

State and local law allow the local government to accelerate the transfer of VAD properties. Recognizing these properties impose greater harm on the community, a separate and quicker process to foreclose on and transfer title to VAD properties can mitigate the harm and get the property back to productive status more efficiently.

A code or property tax lien enforcement system that provides clarity about the final date by which payment can be made, or the property will be transferred. Multiple lien enforcement events (e.g., sale of the lien or debt, then foreclosure of the right to redeem) can create confusion and uncertainty about when the owner or another interested party’s rights expire and when title can be transferred. A single enforcement event, the foreclosure and transfer of the property to a new owner, eliminates much of that confusion.

A code or property tax lien enforcement system that is judicial, focused on the property (in rem), as opposed to the owner (in personam), and that results in marketable, insurable title. The transfer of title for VAD property should focus on transferring the property to new ownership. It should require the local government to provide notice of the foreclosure that meets constitutional standards for due process only one time, instead of at multiple enforcement stages, to conserve limited resources and so that the foreclosure results in title transferred that a local title insurer will be willing to insure.

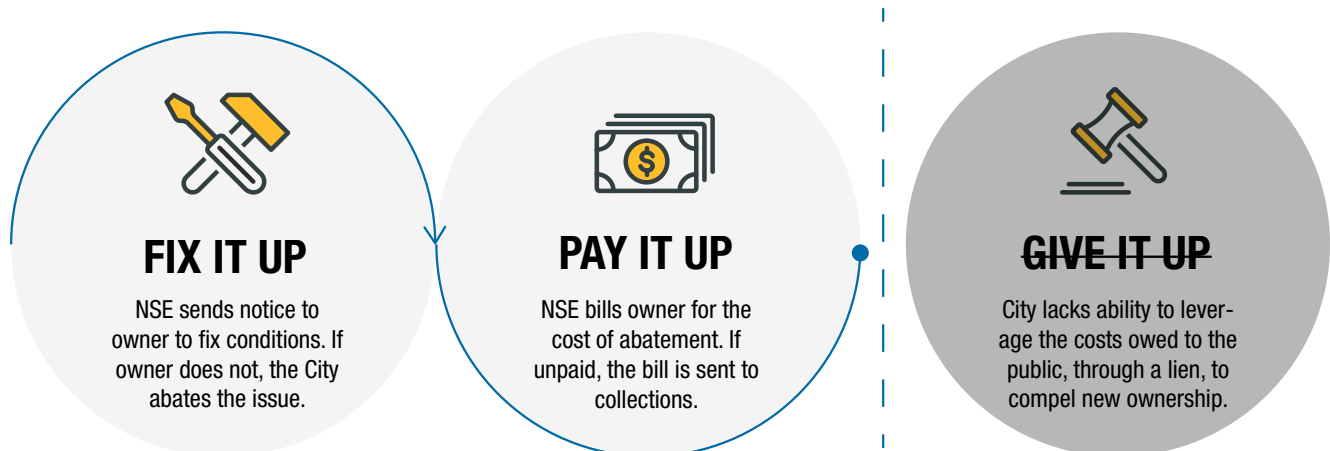
Ability to direct the path of the property to ensure a responsible end user. The local government should have the opportunity to direct the path of the property to a new owner to avoid the property being acquired by a speculative purchaser that does not necessarily have the neighborhoods’ needs or best interests in mind.

Finally, it is important to note that the overarching focus of Fix it Up, Pay it Up, Give it Up is not on the owner, but on the property coming into compliance, which is always the overarching goal of an equitable, efficient, and effective approach to addressing VAD properties.

Applying this Framework in South Bend

Applying the Fix it Up, Pay it Up, Give it Up framework in South Bend, we can identify the current tools being utilized and where challenges still exist.

“Fix It Up, Pay it Up, Give it Up” Code Enforcement Tools in South Bend



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Fix it Up

When there is a violation at a particular property, the Neighborhood Services and Enforcement (NSE) division sends a notice to the property owner to fix the conditions at the property. If the owner is unresponsive, the City will abate the issue (e.g., mow the grass, remove the dumping, demolish a property).

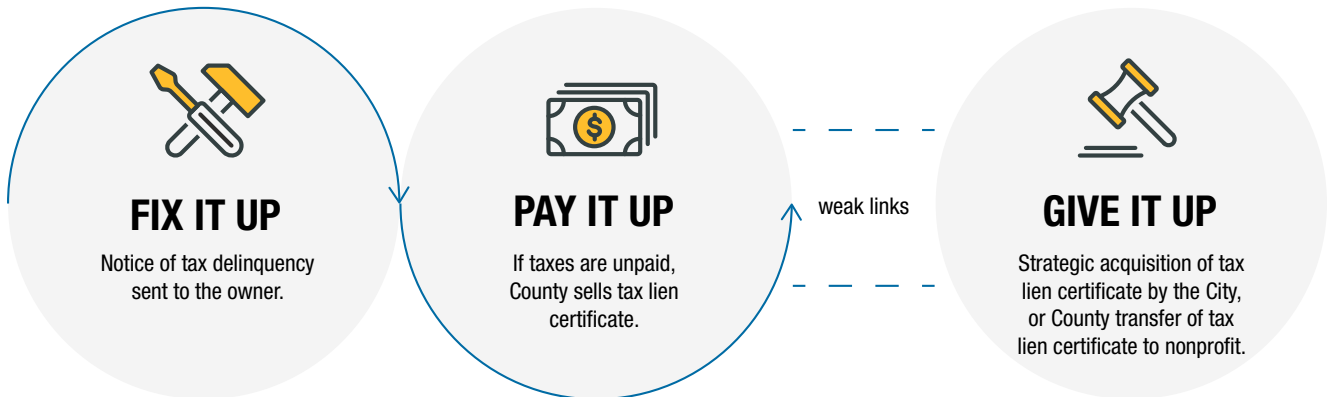
Pay it Up

If the City was forced to abate a code violation, a bill is sent to the owner for the expense of the abatement costs to recoup the public’s expense. If the bill is unpaid, the City sends the bill to a collections agency and does not attach the abatement bill to the tax bill.⁵⁰

Broken Link: Due to this practice, the City loses its ability to leverage the costs owed to the public, through a lien, to compel new ownership.

⁵⁰ Indiana’s Unsafe Building Law (UBL), for example, appears to allow municipalities to add penalties and abatement costs as a special assessment on the property’s tax bill, IC § 36-7-9-1 *et seq.*

“Fix It Up, Pay it Up, Give it Up” Tax Enforcement Tools in South Bend



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Fix it Up

When a property owner fails to pay their annual tax bill, the County sends the owner a notice of tax delinquency.

Pay it Up

Through two annual sales, the County attempts to recoup taxes by selling tax lien certificates to private buyers.

Weak Link: Selling tax liens can result in new ownership, but only if the private buyer petitions the court for the tax deed to the property after the redemption period. The primary incentive of a private buyer at the tax sale is usually not to own the property—unless they can get it well below market value—but to maximize their investment and anticipate that the owner of the property will redeem their property by paying the back taxes, interest, and penalty. This money goes into the pocket of the private buyer, not the City and County, and the property continues to cause harm to the community.

Give it Up

Strategic acquisition of tax lien certificates by the City. If a tax lien does not receive the minimum bid at the tax sale, the property’s tax certificate is automatically transferred to the County and the owner’s redemption period is shortened from one year to 120 days. In years past, the City has requested the transfer of certificates held by the County in targeted redevelopment areas.

County transfer of tax certificate to nonprofits. Though a very limited practice, the County has on occasion transferred the unsold tax certificates to nonprofits for affordable housing development.

Weak Link: If the tax certificate does not sell at either tax sale and it is not transferred to a nonprofit or municipality, the certificate continues to cycle through the tax sale process and accrues additional debt.

Overall Challenge with South Bend’s Approach

- An inventory of vacant, unmaintained, and tax-delinquent lots and structures remains given there is no final enforcement event to compel transfer for properties to new owners
- Tax certificates repeatedly cycle; no sole entity is focused on acquiring, maintaining, and selling to a new responsible owner (in partnership with residents, nonprofit partners, mission driven developers, etc.)

Appendix D: Sample Land Bank Policies

The following set of sample administrative policies for a land bank can be found in Appendix D of *Land Banks and Land Banking* (2nd ed. 2015), by Frank S. Alexander. The full publication is available for download on the Community Progress website at communityprogress.org/publications and has been used with permission by the author in this report. These sample administrative policies are not available as a Word document and may not be copied, distributed, or reprinted without the express written permission of Frank S. Alexander.

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

_____ Land Bank Authority Administrative Policies and Procedures

As Approved and Adopted by the Board of Directors on [DATE]

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

Section 1. Role as a Public Authority.

1.1 Public Authority. The LBA is a public entity authorized by state law and created pursuant to an agreement between _____ and the _____. It is governed by a Board of Directors appointed by _____ and by _____. Advisory Board members are appointed by _____ and by _____.

1.2 Governing Authority. The core governing documents of the LBA are the applicable state law, the _____, the Articles of Incorporation, and the Bylaws.

1.3 Purposes. The LBA is established to acquire the tax-delinquent properties, surplus properties of the local governments, and other properties in order to foster the public purpose of returning land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide housing, new industry, and jobs for the citizens of the county.

Section 2. Priorities for Property Use.

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

2.2 Affordable Housing. The first use of real property of the LBA for nongovernmental purposes is the production or rehabilitation of housing for persons with low or moderate incomes. On an annual basis the Board of Directors establishes the applicable definitions of “low income” and “moderate income”.

2.3 Other Purposes. When there is no governmental purpose or use for a property, and there is no feasible use of the property for affordable housing, the LBA may consider permitting the property to be used for other community improvement purposes. These uses should be consistent with the following priorities: neighborhood revitalization; return of the property to productive tax-paying status; land assemblage for economic development; long-term “banking” of properties for future strategic uses; and provision of financial resources for operating functions of the LBA.

2.4 Neighborhood Consultation. The LBA expects every applicant seeking to acquire property from the LBA to demonstrate prior consultation with neighborhood associations and nonprofit entities in the geographical location of the property.

Section 3. Priorities for Identity of Transferees.

3.1 Priority Transferees. Except where limited by the terms of its acquisition, the first priority for use of real property held by the LBA shall be for conveyance to local government entities for public use. The second priority shall be neighborhood nonprofit entities seeking to obtain the land for low-income housing. The third priority shall be other individuals and entities intending to produce low-income or moderate-income housing. The LBA may also, at its discretion, give priority to: nonprofit institutions such as academic institutions and religious institutions; entities that are a partnership, limited liability corporation or joint venture comprised of a private nonprofit corporation and a private for-profit entity; and individuals who own and occupy residential property for purposes of the Side Lot Disposition Program.

3.2 Transferee Qualifications. All applicants seeking to acquire property from the LBA, or to enter into transaction agreements with the LBA, will be required to provide as part of the application such information as may be requested by the LBA, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, and (b) its prior experience in developing and managing affordable housing.

3.3 Reserved Discretion. The LBA reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities that meet any of the following criteria:

- (a) Failure to perform in prior transactions with the LBA,
- (b) Ownership of properties that became delinquent in ad valorem tax payments and remain delinquent in ad valorem tax payments during their ownership,

- (c) Parties that are barred from transactions with local government entities,
- (d) Parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the LBA,
- (e) Ownership of properties that have any unremediated citation for violation of the state and local codes and ordinances,
- (f) Properties that have been used by the transferee or a family member of the transferee as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).

Section 4. Priorities Concerning Neighborhood and Community Development.

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

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

5.1 Relevant Factors. The following factors shall constitute general guidelines for determination of the consideration to be received by the LBA for the transfer of properties. In each and every transfer of real property the LBA shall require good and valuable consideration in an amount not less than the lower of the fair market value of the property or the Property Costs. "Property Costs" shall mean the aggregate costs and expenses of the LRC attributable to the specific property in question, including costs of acquisition, maintenance, repair, demolition, marketing of the property and indirect costs of the operations of the LRC allocable to the property.

5.2 Retained Discretion. The amount of consideration shall be determined by the LBA in its sole discretion. The consideration to be provided by the transferee to the LBA may take the form of cash, deferred financing, performance of contractual obligations, imposition of restrictive covenants, or other obligations and responsibilities of the transferee, or any combination thereof.

5.3. Transfers to Nonprofit entities for affordable housing.

(a) Transfers of property to nonprofit entities for the development, operation or maintenance of affordable housing shall require consideration not less than the Project Costs.

(b) Consideration shall be established at a level between the Property Costs and fair market value of the property. To the extent that the consideration exceeds the Property Costs, such amount shall be reflected by a combination of contractual obligations to develop, maintain, or preserve the property for specified affordable housing purposes. Such amount may be secured by subordinate financing in which amortization of the obligation occurs by virtue of annual performance of the required conditions.

(c) The dominant priority in determining the amount of and method of payment of the consideration shall be to facilitate the development of affordable housing and simultaneously to ensure that the property is dedicated over an appropriate period of time for affordable housing.

5.4. Transfers to Governmental Entities

(a) To the extent that transfers of property to governmental entities are designed to be held by such governmental entities in perpetuity for governmental purposes, the aggregate consideration for the transfer shall be based upon deed restrictions upon the use of the property.

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

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

5.6. Transfers of Property at Open Market Conditions.

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

Section 6. Conveyances to the LBA.

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

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

- (a) Proposals and requests by nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment.
- (b) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.
- (c) Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.
- (d) Improved properties that are the subject of an existing order for demolition of the improvements and properties that meet the criteria for demolition of improvements.

- (e) Vacant properties that could be placed into the Side Lot Disposition Program.
- (f) Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
- (g) Properties that would form a part of a land assemblage development plan.
- (h) Properties that will generate operating resources for the functions of the LBA.

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

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

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

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

Section 7. Conveyances from the LBA.

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

7.2 Options. Options are available for 10% of the parcel price for up to a twelve (12)-month period. This fee will be credited to the parcel price at closing. If closing does not occur, the fee is

forfeited. All option agreements are subject to all policies and procedures of the LBA pertaining to property transfers.

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

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

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

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

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

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

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

Section 9. Collaboration with For-Profit Entities.

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

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

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

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

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

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

Section 10. Property for Community Improvements.

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

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

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

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

Section 11. Conduit Transfers - Reasonable Equity Policy

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

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

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

- (a) "Fair Market Value" shall be determined by staff according to the tax assessor's valuation, in conjunction with the average sale price in a given community. In instances where multiple valuations unreasonably differ, the staff or Board shall have full authority to require a professional appraisal. This appraisal shall be required only for proposals that have significant variances in valuation and entail transactions in which the owner received in excess of \$20,000.
- (b) "Net Equity" shall mean the current fair market value, as determined by LBA staff, less the total amount of all liens and encumbrances (tax liens, associated interest and penalties; special assessments; mortgages; judgments, etc.).

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

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

11.5 Speculation. To ensure that speculators do not seek to take advantage of the LBA, staff shall closely review instances in which the owner is receiving money far in excess of his investment while consistently ignoring his tax responsibility. Particular attention shall be given to properties purchased in the past three years.

11.6 Excessive Sales Price. In communities that are experiencing internal and surrounding redevelopment, it is unacceptable for an owner to seek a profit in excess of 75% of his net equity. Such an owner may believe that the market will bear more than is offered and would therefore be unwilling to sell the property for a reasonable amount. In such an instance, it would fall to the Tax Commissioner's Office to bring the property to the courthouse steps, where the actual fair market value will be determined.

11.7 Non-Conforming Situations. To ensure the flexibility of the Board, the LBA will reserve the right to modify or change this policy if a situation clearly warrants a change in an effort to protect the interests of the LBA and the public.

11.8 Strategic Importance. To preserve the integrity of the LBA's mission, all properties petitioned to the LBA Board of Directors must pass the test of strategic importance. The LBA may receive proposals that may pass other criteria but which may not be crucial to the redevelopment of a neighborhood. Staff must be able to assure the LBA Board that the transaction is not simply allowable but a necessary component of the comprehensive redevelopment of a neighborhood. Such a transaction must be evaluated in terms of neighborhood redevelopment and ensure a long-term tax benefit to the City and County.

Section 12. Owner Occupant Policy

12.1 Scope. This section is applicable to those situations in which an individual (as opposed to a corporate not-for-profit or for-profit entity) contemplates conveying to the LBA real property that is encumbered by delinquent property taxes, having the taxes abated by the LBA, and the property reconveyed by the LBA to the individual for occupancy by that individual following construction of new housing or rehabilitation of existing housing.

12.2 Purpose. This policy is based on the opportunity for an individual to participate in the benefits derived from the authorization of tax extinguishment by the LBA where the individual applicant did not amass the tax delinquency, but desires to construct or rehabilitate housing in order to use the subject property as his or her own primary residence. Owner-occupant developers shall be required to meet the established LBA Board Petitioning Requirements which include the following: (a) Developer Profile, (b) Development Proposal, (c) Funding Commitment Letter, (d) Development Cost Estimate, (e) Site Control, and (f) Title Report.

12.3 Primary Residence. "Primary Residence" shall mean that upon completion of the construction or rehabilitation, the owner-occupant must reside in the property for a minimum active five (5) years and shall pay all tax obligations that become due and payable after the execution of the Sale and Disposition Contract. At the expiration of the five-year term, where an owner-occupant may seek to sell the property, the owner must offer the property for a sale price not to exceed the current fair market value.

12.4 Requirements and Conditions.

- (a) The applicant must either rehabilitate unoccupied substandard existing housing or create new housing where housing does not exist.
- (b) The subject property must not have been used by the applicant as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of the application.
- (c) The owner-occupant shall enter into a Sale and Disposition Contract with the Authority and shall be responsible for the completion of the construction or rehabilitation within the three-year time limit as prescribed in the covenants of the Contract.
- (d) The LBA will extinguish no delinquent taxes that were the responsibility of the applicant. This would include any taxes that the applicant was responsible for either as owner of the subject property or as a result of any contractual obligation. Such taxes, if any, must be paid prior to the LBA extinguishing any other taxes.

- (e) The owner-occupant shall provide evidence of clear title and the financial ability to perform said Contract with the expressed obligation to reside in the property for a minimum of five (5) years or the delinquent taxes will be reinstated.
- (f) During the term of the occupancy, the owner-occupant shall pay all ad valorem taxes that accrue and shall maintain the property in compliance with the required code enforcement ordinances of the governing jurisdiction.
- (g) The owner-occupant must meet the applicable household income standards established by the LBA.
- (h) If the applicant fails to honor any portion of his or her Contract with the LBA to provide new or rehabilitated housing, the applicant must make a payment of funds to the LBA in an amount equal to the amount of all taxes extinguished by the LBA pursuant to the Contract. These funds shall then be paid by the LBA to the respective taxing authorities in the same proportion as the taxes were levied prior to the extinguishment.

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

Section 13. Side Lot Disposition Program

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

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

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

13.3 Side Lot Transferees.

- (a) All transferees must own the contiguous property, and priority is given to transferees who personally occupy the contiguous property.

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

13.4 Pricing.

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

13.5 Additional Requirements.

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

Appendix E: Other Acquisition Tools

In addition to a land bank acquiring properties through the annual tax sales as described throughout this report, there are other lesser-used acquisition tools available in Indiana that may be worth exploring. The tools listed below may result in an expedited process to transfer tax delinquent property and/or bypass the tax sale altogether. As we have seen first-hand throughout the country, time is a VAD property's worst enemy, so expediting the transfer to a new, responsible owner benefits the neighbors, the community, and the local government. However, through preliminary conversations with other Indiana communities, we have learned these tools are not often used and may be burdensome to administer. South Bend and St. Joseph County should explore the effectiveness and efficiency of these tools as alternative methods to property acquisition.

Property Declared Abandoned⁵¹

Indiana's property tax enforcement system includes an expedited procedure for "abandoned" properties. To use this process, a municipality must first show that a property has at least one of 10 factors showing evidence of abandonment, and a court or administrative hearing authority must declare that the property satisfies this requirement. Properties certified abandoned then bypass the ordinary tax certificate sale. Instead, after providing notice to the owner and others, the County holds a separate public auction for these properties. If the amount due is not paid, the County gets a deed to the property, instead of the certificate it would receive through the normal process. The County can also begin the tax foreclosure process more quickly for certified abandoned properties.

Property Certified as Not Suitable for Sale⁵²

Indiana's property tax enforcement system also includes an expedited process for properties deemed not suitable for sale (NSFS). To use this process, the County executive must certify between January 1 – July 1 that a property contains an environmental hazard or unsafe building condition and that the cost of abatement will exceed the fair market value of the property. The County must provide notice of the certification to each person with a substantial interest of record in the property. At a hearing before the tax sale, a court must review the certification and issue an order confirming the property is not suitable. If a property is deemed NSFS, the tax certificate is automatically assigned to the County, bypassing the tax sale, and the redemption period is reduced from one year to 120 days.

51 Indiana Code § 36-7-37-1; 6-1.1-24-1.5.

52 Indiana Code § 6-1.1-24-1.7

Appendix F: Sample Land Bank Budget

Income		Budget	Actual
	City of South Bend Financial Commitment		
	St. Joseph County Financial Commitment		
	Grant Funds		
	Property Sales Proceeds		
	Tax Recapture Funds		
	Misc. Income		
	Income Total		
Expenses			
Salaries			
	Executive Director		
	Property Acquisition/Disposition Coordinator		
	Community Engagement Coordinator		
	Office Manager		
	Fringe Benefits (additional 30% of total salaries)		
	Salaries Subtotal		
Administrative Expenses			
	Office Space Rent		
	Payroll Services		
	Bank Fees		
	Telephone and Internet		
	Computer Equipment and Software		
	Office Supplies		
	Insurance (Liability, Directors and Officers, Bond, WC)		
	Postage		
	Marketing/Promotion/Website		
	Printing/Reproduction		
	Annual Registration/Dues		
	Furniture/Office Sundry		
	Mileage and Travel		
	Training and Education		
	Administrative Expenses Subtotal		

Expenses (cont.)		Budget	Actual
Professional Fees			
	Accounting Services		
	Financial Audit		
	Title Examination		
	Realtor/Broker Commissions		
	Appraisal Services		
	Legal Services		
	Professional Fees Subtotal		
Property Expenses			
	Property Acquisition		
	Property Maintenance		
	Property Insurance		
	Property Title Clearance		
	Property Expenses Subtotal		
	Expenses Total		
	Less Income		
	BALANCE		

This sample budget template has been modified from the example provided by Sara J. Toering and Allie Jett, Resource Guide for Georgia Land Banks, (Center for Community Progress, 2022) <https://communityprogress.org/publications/resource-guide-for-georgia-land-banks>.

Calculating the Financial Benefits of a Land Bank – Examples for Consideration^{53 54 55 56 57}

- **Increase in Property Taxes:** Even with potential tax recapture, property sold by land bank went from non-paying status to paying status, with taxing bodies now receiving at least 50 percent proceeds for a limited time period and 100 percent proceeds after agreed upon time period.
- **Stabilize and/or Increase Property Values:** VAD properties bring down the value of the neighborhood and adjacent property values, transforming these into community assets will stabilize and/or increase property values which increases the homeowners' equity and tax base in general.
- **Reduced Maintenance Costs:** Once a property is transferred to land bank, it is the responsibility of the land bank to maintain that property, not local government.
- **Reduced Public Safety Costs:** Several studies show a direct correlation between decrease in VAD properties and decrease in public safety risks and costs associated with responding to 911 and other calls.

53 The Michigan Association of Land Banks provides estimated negative impacts on property values and estimated positive impacts when properties are rehabbed for varying types of VAD properties in their publication *Quantitative & Qualitative Impact Assessment of Land Bank Activity in Michigan* (2018) https://milandbank.org/wp-content/uploads/2018/10/Final_Reduced-Size.pdf.

54 The Cuyahoga County Land Bank in Ohio estimated interventions within a 10-year time period, which includes putting 11,436 VAD properties back on the tax rolls, resulted in a \$735.9 million increase in nearby home values; a \$334.3 million increase in property sales, tax revenue, and private investment activity; and \$362.8 million in local economic impact. See more at <https://cuyahogalandbank.org/wp-content/uploads/2021/09/Cuyahoga-Land-Bank-10yr-Impact-Report-20190626-1.pdf>.

55 The New York Land Bank Association conducted a 10-year impact assessment of land bank activities across the state and found land banks put \$135 million in assessed property values back on tax rolls. For case studies representing a range of property inventory and activities see *A Decade of Progress: Celebrating 10 Years of Land Banking in New York*, (Community Progress, 2023) <https://communityprogress.org/publications/a-decade-of-progress-new-york-land-banks/>.

56 Studies show cleaning and greening vacant lots can decrease gun-related violence by as much as 29 percent. Branas, C. et al. (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3988203/>.

57 An analysis of Pennsylvania Horticultural Society's greening program impact on health and safety from 1999-2008, found a significant reduction in gun assaults citywide in areas with PHS-greened vacant lots. Additionally, in many of these areas, residents also reported less stress and increased exercise. "A Difference-In-Difference Analysis of Health, Safety, and Greening Vacant Urban Space," <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3224254/>.

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