

Memorandum

TO: **Krista Trout-Ewards**, Executive Director, Calhoun County Land Bank Authority
Amy Rose Robinson, Assistant Director, Calhoun County Land Bank Authority
Quinton Hay, Housing Projects Coordinator, Calhoun County Land Bank Authority
Tonesha Heath, Property Projects Coordinator, Calhoun County Land Bank Authority

FROM: **Janell O’Keefe**, Associate Director, Technical Assistance, Center for Community Progress
Matt Kreis, General Counsel, Center for Community Progress

DATE: September 27, 2024

RE: Legacy & Heirs’ Properties in Calhoun County

Like many communities in Michigan and across the country, Calhoun County has several neighborhoods impacted by vacancy and abandonment, including the Washington Heights neighborhood in Battle Creek. Washington Heights is the only majority-Black neighborhood in Battle Creek and has seen some of the greatest population decline in the city over the last 10 years.¹ A key challenge for Washington Heights residents has been the loss of property through tax foreclosure, particularly situations where an owner passed away without any estate planning in place. This leaves properties in legal limbo and usually results in fractured title, a phenomenon often referred to as “heirs’ property.”² The lack of clear ownership prevents heirs from accessing important programs like property tax foreclosure prevention and property maintenance support. Without access to those resources, and often with limited means themselves, heirs may struggle to keep up with maintenance and financial obligations. That results in properties falling into disrepair and property tax foreclosure, resulting in the family’s loss of property and equity. Many heirs’ properties were ultimately demolished because of severely deteriorated conditions.

Over 250 properties in Washington Heights are now held by the Calhoun County Land Bank Authority (CCLBA). For the last several years, CCLBA has been working with the Washington Heights Neighborhood Advisory Committee (WHNAC) to develop and implement a land reuse strategy for the neighborhood. Through that work, the CCLBA received multiple requests from family members to purchase land bank property that was formerly owned by relatives. The CCLBA and local stakeholders refer to these potential purchasers as “legacy purchasers.”

In 2024, the CCLBA reached out to the Center for Community Progress (Community Progress) for support in developing a strategy around this issue, including updated policies and programming. This memorandum summarizes that work, with two attachments detailing program considerations and specific proposed policy changes.

¹ ACS 5 Year Estimates, as pulled from www.policymap.com on August 23, 2024.

² See more about heirs’ property on the Community Progress website at: <https://communityprogress.org/wp-content/uploads/2024/07/progress-points-heirs-property-2024.pdf>.

Process Overview

To inform the proposed policy changes and support the CCLBA in developing programming for legacy purchasers and exploring its relationship to heirs' property prevention, Community Progress:

- Reviewed existing CCLBA policies and programs, state and local laws related to CCLBA acquisitions and dispositions, state law related to intestate transfers of property, and policies and programs put in place by other land banks attempting to address similar requests.
- Reviewed available information related to any state, county, or local programs designed to assist property owners with estate planning or to help the heirs of deceased property owners navigate title issues with heirs' property.
- Conducted multiple meetings with CCLBA staff to better understand the scale, challenges and opportunities, and existing programs associated with heirs' properties.
- Conducted a site visit to Battle Creek, which consisted of:
 - A neighborhood tour of Washington Heights;
 - Group interviews with City and County representatives, including commissioners, code enforcement staff, and senior services staff;
 - One-on-one interviews with WHNAC leadership and potential legacy purchasers; and
 - A WHNAC meeting with community conversation about heirs' properties, referred to herein as the "April 2024 meeting."
- Co-drafted preliminary ideas for a legacy purchaser program.
- Facilitated multiple conversations with CCLBA staff to think through critical decision points and fine tune program design.

Key Observations

CCLBA staff and the WHNAC said their top priority was to create an equitable and effective process for family members to apply for property formerly owned by a deceased family member. Addressing the absence of estate planning and heirs' property prevention more generally was a significant concern for residents. WHNAC members were interested in working with partners beyond, but including, the CCLBA to explore these issues more and develop materials and educational programming. Accordingly, our recommendations focus on specific policy language for legacy purchasers and property. We offer some considerations for the role the CCLBA could play in other efforts around heirs' property in Calhoun County.

Recommendations

The recommendations below and in the attached exhibits are based on Community Progress' research, interviews, and extensive knowledge of best practices to address vacant, abandoned, and deteriorated property across the country. They should be reviewed closely with local legal counsel and advisors.

- 1) **Revise CCLBA Policies and Procedures and launch a legacy purchaser program (see attached proposed policies).**

Exhibit A details several recommendations for specific amendments to language in the CCLBA's Policies and Procedures for the Acquisition, Use and Disposition of Real Property (Policies and Procedures). Given what we learned in our research, on the site visit, and in conversations with the CCLBA, we recommend amending the Policies and Procedures to provide the CCLBA and its board the

flexibility and guidance they need to respond to the range of possible roles the CCLBA could play in supporting legacy purchasers. Recommended amendments to the Policies and Procedures include:

- Changes to Section 2.2 to provide the CCLBA increased flexibility to acquire property in support of its legacy purchaser program and efforts to reconnect people with their family land, which may include acquiring property from Calhoun County or for the purpose of providing a family member of a deceased owner with support via the use of the CCLBA's quiet title powers.³
- Three options to amend Section 3.2 to clarify the priority of legacy purchaser proposals and to clarify that reuse may include stabilization (e.g., simply agreeing to maintain a vacant, overgrown lot) and/or legacy resident wealth-building.
- Changes to Section 3.3 to clarify the priority of legacy purchaser applications and to provide guidance and authority to the CCLBA to create a program or pilot program to consider legacy purchaser applications.
- Minor, optional change to Section 3.4 to provide flexibility to consider legacy purchaser applications from individuals who may not have experience developing/managing real property.

Once the CCLBA has amended its Policies and Procedures, it should ask the board of directors for the authority to create and launch a pilot of the "Legacy Purchaser Program" focused on the Washington Heights neighborhood. This program, which is more fully developed in the PowerPoint presentation attached as **Exhibit B**, should be consistent with the Policies and Procedures amendments and include, at a minimum:

- Details on the geographic focus of the program
- Details on the types of property available through the program (i.e., vacant lots zoned residential)
- Clear guidelines for applicants on eligibility, including how applicants must demonstrate their plan and ability to maintain or otherwise reuse the land and where applicants must reside (e.g., in or adjacent to the municipality and/or Calhoun County)
- Transparent pricing
- Any additional resources that may be available to the potential purchaser from CCLBA or other local partners to prepare the purchaser for property ownership, including property maintenance requirements and how to work with an attorney or legal services to ensure the property is included in the purchaser's will or estate plan

Before seeking final approval from the board, CCLBA should share a draft of the program with the neighborhood during a WHANC meeting to get feedback on its creation. Noting concerns raised in the April 2024 meeting around the perceived lack of notice of the special meeting about heirs' property, it is important to dedicate time during an *already known and scheduled* event, likely a WHANC regular meeting. The CCLBA could also do supplemental outreach for this meeting through additional outreach materials (such as door hangers, flyers, social media posts) and work with key community members to spread the word. The CCLBA should also contact those who attended the April 2024 meeting to notify them that a program draft will be shared at the upcoming WHNAC meeting.

The CCLBA can use information in **Exhibit B** to create a presentation for the resident meeting, but it should also include a strong, transparent narrative for how the CCLBA arrived at this proposed program design. For example, seeking to adopt the amendments in **Exhibit A** prior to this meeting, the CCLBA should be clear that it listened closely to individuals and residents at the April 2024 meeting and brought those concerns to its board, which gave its approval to pursue the program. It will also want to be clear

³ It may be that the CCLBA believes the existing language gives the necessary flexibility to acquire property in support of its legacy purchaser program, in which case pursuing these changes may not be an immediate priority.

about what the program and the CCLBA *cannot* do (e.g., assist current owners with City zoning issues). At the meeting, the CCLBA should also listen to residents' concerns or ideas and incorporate at least one to two key ideas from the meeting into the program design. Several residents who attended the April 2024 meeting noted a lack of trust with the CCLBA, as well as the municipal and county governments in general. Demonstrating responsiveness to the community's specific feedback is a good step towards improving that trust. If possible, it may also help to build trust by identifying the first individual with whom CCLBA plans to pilot its Legacy Purchaser Pilot Program and ask them to tell their story at the meeting and share their plans for what they are going to do with the land.

Once the meeting is finished, changes to the Policies and Priorities have been approved, and the program design is finalized, the CCLBA should develop simple, one-page flyers and a webpage about the program. These materials must include a clear description of eligibility guidelines and a link to a list of the land bank's inventory in the geographic area of the pilot program.⁴

At the end of 2025, or whenever the CCLBA deems appropriate, the CCLBA should assess the success of the pilot program and consider expansion to other Calhoun County neighborhoods as appropriate.

2) Identify or develop educational materials to provide to all CCLBA purchasers—but especially legacy purchasers—on estate planning.

As CCLBA is designing the legacy purchasers program, it should also create educational materials about heirs property to share with *all* CCLBA property purchasers, including future legacy purchasers. These materials should broadly describe the importance of having a will or estate plan to ensure a smooth transition of family property and wealth to the next generation. They should also detail the ways in which both the CCLBA and external partners, like Legal Services of Central Michigan or Calhoun County Senior Services, might offer assistance. The materials could include:

- 2-3 sentence overview of heirs' property and associated risks, including loss of family property and wealth
- Listing of the services CCLBA offers, including its ability to quiet title for certain homeowners
- Programs available from, and contact information for, local legal aid agencies or senior services that will help provide resources *to avoid heirs' property issues*, such as helping to develop a will or estate plan
- Programs and resources available from, and contact information for, organizations such as the Calhoun County Treasurer and Calhoun County Probate Court that can support for families *dealing with heirs' property issues and looking to address them*

3) Support the Calhoun County Treasurer in launching a program like [Homes for Generations](#).

The Homes for Generations program in Washtenaw County has helped nearly 50 families resolve issues with lack of clear title and avoid property tax foreclosure by leveraging the resources of the Washtenaw County Treasurer and the Washtenaw County Probate Court.

Calhoun County has an excellent opportunity and the right parties in place to replicate the Homes for Generation program. Discussions to define roles for the Calhoun County Treasurer's Office and the Calhoun County Probate Court's office are ongoing, and each is interested in CCLBA playing a key role in carrying out the program.

⁴ The CCLBA has indicated it is exploring ways in which it might wish to review or recalibrate how its inventory is made available for various CCLBA programs, such as how the Omaha Municipal Land Bank has done in its Disposition Strategy, available at: <https://omahalandbank.org/wp-content/uploads/2022/11/Disposition-Strategy.pdf>. See, in particular, the separation of land bank inventory in three categories on p. 4-6.

We do not purport to direct how the Treasurer's Office and Probate Court design their program or define their roles, but it appears to us from our interviews that the Treasurer's Office's role in this program is primarily to identify potential families in need of the Homes for Generations program (in part because of the Treasurer's Office's excellent approach to one-on-one outreach). The Probate Court's primary role is likely to review referrals from the Treasurer's Office and then identify and request local lawyers to provide pro-bono support to the appropriate families. While we agree that the Probate Court could use support in building out this part of the program, it is unclear if the CCLBA has the capacity, connections, or expertise to play a larger role at this time.⁵ Nevertheless, the CCLBA can play a critical role in supporting this program in the following ways:

- Provide education around heirs' property risks and/or resources (see recommendation #2)
- Direct families either at risk of or caught up in the delinquent tax enforcement process to the Homes for Generation program
- Leverage CCLBA's networks to connect local lawyers with pro bono opportunities with the Probate Court

4) **Facilitate ongoing conversations with key municipal, County, legal aid, and private partners to explore the creation of a dedicated, county-wide program to prevent and address heirs' property issues.**

One of our goals in this engagement was to help foster discussions to determine if a broader, county-wide heirs' property program was of interest. While there is interest, capacity in most organizations to create a specific program and coordinate the efforts of all stakeholders is limited. That said, the CCLBA may wish to explore its ability to at least bring stakeholders together once or twice a year to discuss their varied efforts and share programmatic progress and/or opportunities to collaborate. Potential entities to invite to this meeting could include:

- Calhoun County Treasurer's Office
- Calhoun County Probate Court Manager/Probate Register
- City of Battle Creek's Department of Community Services, or other municipal representatives who manage key home repair or other programs
- City of Battle Creek's Diversity, Equity, and Inclusion Officer
- Calhoun County Senior Services
- Legal aid attorneys or other attorneys with experience in elder and estate planning law
- Nonprofits or other agencies that provide repair or home maintenance services
- Community leaders and agencies, such as local churches, to help deliver the message of the existence of available programs and resources

If interest exists, at least one of those meetings each year could be held in advance of the [Calhoun County's annual Senior Expo](#) in May. Regular meetings may reveal the need and alignment of one entity or another stepping up to fill the void of creating a program that simply tries to connect all the various efforts to support families facing heirs' property issues. Additional recommendations for the CCLBA to explore are contained in **Exhibit B**.

⁵ Conversations with the CCLBA's occasional transaction attorney revealed interest and enthusiasm in pro-bono work of this type; it is worth exploring how she and her network may be able to support a Homes for Generations program.

Exhibit A

Suggested Policies and Procedures Amendments

Below are suggested amendments to the CCLBA's *Acquisition, Use, and Disposition of Real Property Policy* to accommodate a legacy purchaser program.

1. In Section 2.2, modify language so that (k) reads as follows: "Properties for which title issues may be an obstacle to redevelopment or reuse in a manner consistent with the highest and best use for the property as determined by the priorities of the community in which the properties lie and consistent with the priorities of the CCLBA."
2. In Section 2.2, after (k), include as new sections (language adopted from Omaha Municipal Land Bank and Oakland County Land Bank Authority):
 - a. (l) Vacant properties located in neighborhoods with an active neighborhood plan or plans, developed with direct input from neighborhood residents, organizations, and institutions.
 - b. (m) Vacant properties located in historically underinvested, redlined, or otherwise marginalized neighborhoods, where an investment may support wealth-building for residents of those neighborhoods.
3. In Section 3.2, the CCLBA may consider whether adding another subsection here entitled "Legacy Wealth Building" is appropriate. The definition could include: "Property that will be reclaimed and maintained or improved by members of a deceased former owner's family after the property was lost involuntarily due to property tax foreclosure." If the above approach is not practical, consider two additional approaches to expand the CCLBA's ability to dispose of property for purposes of stabilizing a particular neighborhood.
 - a. Option 1: Modify (c) to include the following language: "...put back into productive use, which may include, but is not limited to, redevelopment, demolition, or simple routine maintenance and upkeep of a previously blighted or ill-maintained property."
 - b. Option 2: Create a new subsection (d) and modify remaining subsection letters accordingly. New subsection (d) could read: "Stabilization: Abandoned or vacant property will be stabilized and maintained in a manner that eliminates the potential harmful impact of the property and contributes to overall stability of the neighborhood."
4. In Section 3.3, insert a new subsection (b) and then edit subsequent subsections as (c), (d), etc.:
 - a. (b) Individuals or members of a family who are the heir(s) of a deceased former owner of the property and are seeking to reclaim, reuse, and maintain property acquired by the CCLBA in a manner consistent with the priorities of the community in which the property lies and the priorities of the CCLBA. For the purposes of this subsection, property available for such a purpose must have been owned by a deceased member of the purchaser's family immediately preceding either the CCLBA's or Calhoun County's acquisition of the property. The deceased former owner must have been related to or otherwise connected to the purchaser via one of the following relationships: grandparent, parent, former legal guardian, aunt, uncle, and siblings, or other relationship at the discretion of the Board. Consistent with this subsection and with the CCLBA Policies and Procedures, CCLBA may create a program and program guidelines designed to identify and connect family members with CCLBA land

appropriate to this section. Such a program may begin as a pilot program in neighborhoods that meet criteria described in Section 2.2, subsections (l) and (m).

5. In Section 3.4, modify subsection (b) to: “the applicants prior experience in developing and managing real property, provided such information may be deemed unnecessary if the application is to purchase property for the purposes of 3.3(a) or (b) above.”

Exhibit B: Legacy & Heirs Considerations for Calhoun County Land Bank Authority

These considerations reflect collaborative conversations between Center for Community Progress and the Calhoun County Land Bank Authority (CCLBA) and represent what CCLBA currently finds feasible.

Legacy Purchaser Program: Recommendations

Applicant Eligibility

- Direct relative of the deceased “most recent long-term principal resident,” such as child, step-child, niece/nephew, sibling, or grand-child, -stepchild, -niece/nephew. Other relationships/connections at Board discretion
- Meet other purchasing standards, including being tax current and having no outstanding code violations on other property owned
- Has plan and demonstrated sufficient resources to maintain the property
- Commits to keeping property code compliant
- Must reside in County or adjacent counties, although other residency could be approved at Board’s discretion

Potential Order of Offering Properties

1. Legacy purchaser
2. Adjacent qualifying neighbors
3. Other eligible applicants



Legacy Purchaser Program: Recommendations cont.

Property Eligibility

- Any parcel in CCLBA inventory obtained through “involuntary transfer,” which is primarily through property tax foreclosure
- Vacant residential lots
 - Individuals meeting Legacy Purchaser criteria are likely eligible to purchase vacant structures under current policy
- Application-based: interested party must apply

Policy Details

- Phased implementation:
 - ✓ Washington Heights only, 2024-2025
 - ✓ Neighborhood Planning Council 2, mid to late 2025
 - ✓ To be determined (i.e., other neighborhoods in Calhoun County), 2026
- Up to two parcels per individual, one application per parcel. More than two parcels would require Board approval
- Use side lot program as a model to determine purchase price
- Provide title work and warranty deed
- Provide information and, if available, resources to have property included in will or estate plan



Educating CCLBA and Legacy Purchasers on Protecting Generational Wealth: Recommendations

Details

Goal

- Reducing the likelihood of current CCLBA property from becoming heirs' property in the future
- Getting the message out about the importance of estate planning

Target Audience

- Purchasers of any property from CCLBA, but especially legacy purchasers

Potential Activities for CCLBA

- Provide title work and warranty deed for majority of properties sold
- Share standardized educational materials at/ahead of closing
 - Materials could be created by CCLBA or in coordination with other related county programs, or modified from existing materials created by others
- Explore opportunities for future support
 - Such as connecting buyers to estate planning services – pro bono or paid for at closing



County-Wide Heirs' Property Prevention: Considerations

"Homes for Generations" Program Ideas

Lead: Calhoun County Treasurer's Office

Goal: Reduce heirs' properties going through property tax foreclosure; connect otherwise eligible residents to property tax support programs (e.g., poverty exemption); reduce number of properties with title issues

Target Audience: Calhoun County residents in the property tax foreclosure pipeline without clear title to their home

Potential program activities: Provide pro-bono probate and estate services to tax delinquent (or at risk) property owners without clear title to their homes

CCLBA Role: Support outreach activities, likely to residents and neighborhood groups, using materials developed by CTO



County-Wide Heirs' Property Prevention - Considerations

General Education & Prevention

Lead: Senior Services

Goal: Reduce heirs' properties in Battle Creek and Calhoun County; reduce future need for Homes for Generations

Target Audience: All Calhoun County residents; could start with seniors (so activities could be funded by millage)

Potential Program Activities:

- Educational materials
 - One-pagers, webpage, flyers
 - Videos, radio/tv spots
- Specific community learning events
- Pro bono/reduced cost estate planning services

CCLBA Role: Support outreach activities, likely to residents and neighborhood groups, using materials developed by others





Flint (Headquarters)

111 E. Court St
Suite 2C-1
Flint, MI 48502

Washington, DC

1101 14th St NW
Suite 510
Washington, DC 20005

Atlanta

299 Joseph E. Lowery Blvd NW
Suite 203
Atlanta, GA 30314

Chicago

100 S. State St
Suite 405
Chicago, IL 60603

communityprogress.org