

A TECHNICAL ASSISTANCE PANEL REPORT

Cook County Land Bank TAP

Chicago, IL

October 23-24, 2012



**Urban Land
Institute**

Chicago

Urban Land Institute Chicago

The mission of the Urban Land Institute is to provide leadership in the responsible use of land and in creating and sustaining thriving communities worldwide.

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This Technical Assistance Panel was sponsored by Cook County Commissioner Bridget Gainer, in partnership with Cook County President Toni Preckwinkle and the Cook County Land Bank Advisory Committee.

Technical Assistance Panel Program

The Technical Assistance Panel (TAP) allows local communities or government agencies an opportunity to access strategic advice from experts in development that they could not obtain through any other process.

The goal of the panel program is to convene a multi-disciplinary ULI-member team of experts to examine complex land use challenges and help sponsors find creative, practical and implementable solutions based on community realities and best practices.

The panel process brings together perspectives from current market, land use and design, financing and development strategies. TAPs are typically two-day intensive working sessions addressing land challenges proposed by the sponsoring organization, a local government, non-profit organization, or developer, about a specific development issue or policy barrier within a defined geographic area.

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The Challenge: Foreclosure & Vacancy in Cook County

Vacant and distressed properties have become a growing problem for metropolitan areas following the foreclosure crisis of 2008 and the ongoing deep recession and slow recovery. Foreclosures have left many communities bereft of neighbors, facing declining property values, and with growing numbers of vacant and boarded up properties that draw crime and reduce nearby home values.¹

In Cook County, nearly 200,000 housing units are currently vacant, and according to the Circuit Court of Cook County, an estimated 85,014 foreclosure cases are currently pending in its court. In 2005, there were only 14,442. While many are in the city of Chicago, the suburbs are far from immune to the problem (see Figures 1 and 2 on opposite page). In addition to the immediate impact on a neighborhood, foreclosures also leave municipalities with a declining tax base, delinquent property tax rolls, and growing maintenance issues. In Chicago, if a foreclosed property is quickly put back on the market, the average cost to local governments is only about \$430. If the home languishes and is abandoned and requires demolition, the cost to the local municipality is \$34,199.²

Properties that are vacant and abandoned are sometimes tax delinquent, which is an added drain on public resources with their upkeep costs (boarding up, mowing lawns) and loss of tax revenue. Outstanding tax liens or other liens, such as unpaid water bills, are a major hurdle for private or public-sector developers who might be interested in rehabbing the property. The complicated process of clearing the liens can take up to two and a half years at times.

Combined with the real estate crisis, the severe loss of jobs and income during the economic crisis has set back progress in community and economic development more than 20 years in Chicago and Cook County. The region had made tremendous strides at the local, city-wide, and county-wide levels to rebuild distressed communities in the 1990s and early 2000s. This progress has been threatened, but leadership exists in local communities to tackle the challenges and rebuild their economic and residential markets.

Without intervention, foreclosure and abandonment will continue to be a deteriorating spiral for many communities. The eyesores sit empty, and vandals move in and strip the homes of copper pipes and other valuable material. Eventually, the municipality must step in - if it can afford to - and demolish the home or business. The vacant land becomes a harbinger of disinvestment, and the community slides downhill.

The challenges facing Cook County are not only in the realm of housing. Issues of land assemblage, encumbered titles, and distressed commercial and industrial properties are equally important with respect to economic opportunities for Cook County residents and a stable tax base for local communities.

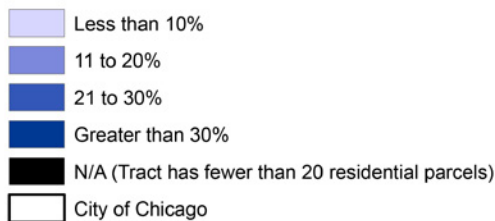
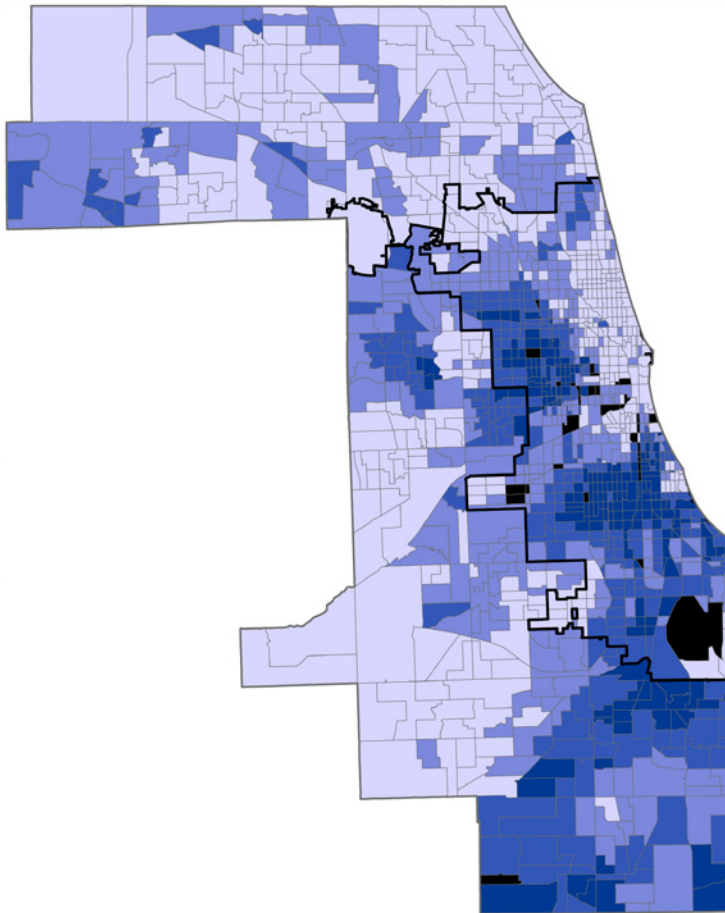
1. Studies have shown that each foreclosure causes homes within about an eighth of a mile to lose from 0.5% to 2% of their value. See Todd Swanstrom, "Resilience in the Face of Foreclosures: How National Actors Shape Local Responses." In *Urban and Regional Policy and Its Effects*, ed. By Margaret Weir et al. (Washington, DC: Brookings Institution, 2012). A study in Chicago found that for each 1 percentage point increase in the foreclosure rate, violent crime ticked up by about 2% in the area. See Dan Immergluck and Geoff Smith, "The Impact of Single-family Mortgage Foreclosures on Neighborhood Crime," *Housing Studies*, vol. 21 (2006).

2. William C. Apgar and Mark Duda, "Collateral Damage: The Municipal Impact of Today's Mortgage Foreclosure Boom." (Minneapolis: Homeownership Preservation Foundation, May 11, 2005).

Foreclosure by Census Tract

Figure 1: Foreclosures are facing virtually all Cook County communities.

Percent of Residential Properties with a Foreclosure Between 2005 and 2011, by Census Tract

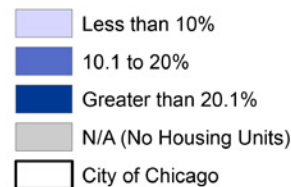
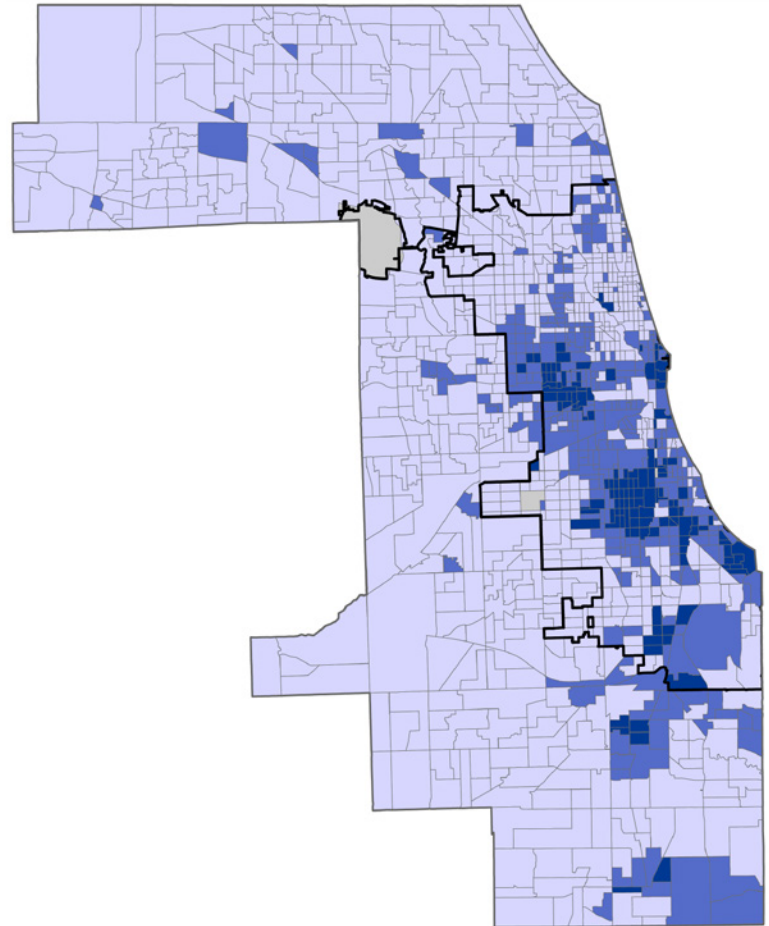


Foreclosure Map Source: Record Information Services, Cook County Assessor. Prepared by Institute for Housing Studies at DePaul University.

Vacancy by Census Tract

Figure 2: While housing vacancies tend to concentrate in certain areas of the County, nearly all communities are facing higher levels of vacancies than in the past.

Overall Vacancy Rate in 2010 Census, by Census Tract



Vacancy Map Source: Record Information Services, Cook County Assessor. Prepared by Institute for Housing Studies at DePaul University.

The Response: A County-Wide Land Bank

As the problem has grown, local leaders and stakeholders have begun seeking innovative solutions. The Cook County Board recently formed an Advisory Committee to explore a land bank for Cook County. A land bank is an entity that can acquire, hold, manage, and develop foreclosed or tax-delinquent vacant properties. It can provide communities with a legal tool to hold, sell, or develop these properties with the long-term interest of the community and surrounding property owners in mind.³

As the Center for Community Progress explains: “Land banks often provide marketable title to properties previously impossible to develop due to complicated liens and confused ownership histories. While land banks are generally associated with older urban communities that have significant abandonment, they are

potentially just as useful to safeguard healthy communities from deterioration.”⁴

On July 24, 2012, the Cook County Board passed a resolution sponsored by President Toni Preckwinkle and Commissioner Bridget Gainer to establish an Advisory Committee to investigate the establishment of a Cook County land bank.

To complement the Advisory Committee, Cook County Commissioner Gainer engaged ULI Chicago to organize a Technical Assistance Panel (TAP). Chaired by Scott Goldstein of Teska Associates, Inc., the panel brought together a diverse set of real estate experts to provide objective industry expertise and pragmatic recommendations for the land bank. Members of the panel included industry experts on real estate law, affordable housing, community development, private-sector development, and land planners, as well as leaders of three of the most successful land banks in the nation from Minneapolis/St. Paul; Flint, Michigan;

Questions for the Panel

- **Mission:** What is the central mission of the land bank, and how does it intersect with existing county initiatives and the private market? What are the roles of the county, the municipality, and the prospective developer in acquiring, holding and disposing of property?
- **Acquisition:** What is the process or criteria to be used to identify and acquire or accept properties? What is the process or criteria in evaluating the acquisition of improved properties? What are the criteria or process in identifying the economic feasibility of improving properties or in making decisions about demolition?
- **Asset Management:** How should the land bank interface with asset management? Where should the private sector or partners enter in providing the necessary maintenance, property management, and redevelopment services? What resources will be needed to successfully manage the property?
- **Disposition:** What is the process or criteria for disposing of a property? What marketing and disposition strategies should be employed? How does long-term municipal planning impact or impede private market acquisition of properties owned by the land bank?
- **Finance and Operations:** How will the land bank be capitalized in the short- and long-term? Given the recommended mission and familiarity with existing land bank models, what resources should be developed and how should they be deployed?
- **Governance:** In addition to statutory oversight required by Cook County, what is the best governance structure to ensure objective and transparent decision-making and management around property acquisition/disposition and operations?

3. Frank Alexander, “Land Banks and Land Banking,” (New York: Center for Community Progress, 2011).

4. Ibid.

and Cleveland. The TAP coordinated with the Cook County Land Bank Advisory Committee, timing the TAP's deliberations to provide expertise to the Advisory Committee and Cook County Board early in the process.

During two days of deliberations, the panel provided extensive opportunities to collect input from stakeholders, experts, and elected officials. TAP panelists benefited from briefings with Cook County President Preckwinkle and Commissioner Gainer, interviewed more than 40 local housing and community development experts, and held a working session with more than 50 representatives from municipalities, community groups, and the banking and real estate industries. The panel delivered initial recommendations on the afternoon of October 24 to Commissioner Gainer, Cook County President Toni Preckwinkle's administration, and MarySue Barrett, president of the Metropolitan Planning Council and chair of the Advisory Committee. Panel members then worked throughout the remainder of the week to fine-tune the recommendations and develop a presentation for the October 29 meeting of the Cook County Land Bank Advisory Committee.

Panel Recommendations

The TAP panelists agreed there is a strong need to establish a land bank in Cook County, to:

- Assemble land for commercial, industrial, and residential redevelopment
- Stabilize communities by acquisition and disposition of key parcels
- Clear title to properties
- Strategically repurpose land and vacant buildings
- Support local priorities
- Ensure there is a county-wide tool

The recommendations that follow are organized by mission (the purpose and parameters of a land bank in Cook County); governance structure and finance (how the land bank would be organized and governed, and its operations funded); and acquisition and disposition (criteria for acquiring property, managing it while held, and goals for its reuse).



Vacancy and foreclosure effect both multifamily and single family homes, decreasing the value of neighboring homes and reversing community development goals. (Photos courtesy of NHS Chicago.)



A strategic, collaborative land bank has the potential to reverse the impacts of vacancy and foreclosure through rehab, redevelopment and re-occupancy. (Photos courtesy of NHS Chicago, Center for Community Progress and Mecca Companies, Inc.)

The Mission of a Cook County Land Bank

The TAP recommended the following mission for a land bank:

The land bank will acquire, hold, and transfer properties throughout Cook County for the following purposes: to promote redevelopment and reuse of vacant, abandoned, and tax-delinquent properties; support targeted efforts to stabilize communities; stimulate residential, commercial, and industrial development; all in ways that are consistent with goals and priorities established by its local government partners and other community stakeholders.

In establishing a land bank, the panel recommended foremost that it be a strategic, collaborative, proactive catalyst for redevelopment based on local priorities, rather than an entity to accept all available properties. The latter would stretch the capacity of the land bank to provide staffing, legal support, maintenance, and the ability to return properties to productive use. The land bank should support local governments and the plans and priorities they have established in their communities. It can partner with intermediaries, nonprofit and community-based developers to reduce costs and the time needed to redevelop and reuse distressed properties. Doing so will help stabilize communities and position their residential, commercial, and industrial properties for redevelopment and reuse.

Governance Structure & Finance

A land bank can be structured in a variety of ways. After examining best practices with land banks from around the country, the TAP focused on three possible operating structures: 1) using an existing governmental authority to sponsor the land bank (the Housing Authority of Cook County or Cook County), 2) creating a new independent, nonprofit entity, or 3) using the County's authority as a "home rule" county to create a quasi-governmental entity with some delegated powers of the County.

Although there could be many benefits to using the Housing Authority to operate the land bank, its “non-home rule authority” (which only gives it powers specifically granted by the Illinois legislature) would prevent it from operating as a land bank without first obtaining legislative authority to do so. Alternatively, the TAP was advised that Cook County as a home rule entity has broader powers to operate a land bank.

However, the County is not currently well equipped to acquire, hold, and dispose large portfolios of land. Furthermore, the TAP found in consulting with stakeholders (municipalities in Cook County, real estate professionals, property owners, and financial institutions) and members of the public, it was critical that the land bank be independent and its governance transparent. While an independent entity would be nimble and flexible, and be able to respond to the challenges facing local communities, the TAP determined having a certain amount of governmental authority would be clearly beneficial with the critical tasks of clearing title, liens, and other important matters.

Although some existing land banks are structured as independent nonprofit corporations, the TAP concluded that this structure would not be as desirable in Cook County. A nonprofit entity could only hold land tax free if it were putting the property to active charitable use. The TAP was concerned it would be difficult to satisfy the conditions of tax exemption if the land were vacant. The TAP determined being able to hold land and be exempt from property taxes were essential to fostering redevelopment with the ultimate goal of returning properties to productive and taxable uses.

The TAP settled on recommending a quasi-governmental structure that would effectively leverage Cook County’s existing home rule authority. The primary reason the TAP recommended the quasi-governmental option was, as noted above, this structure can hold land over time without being subject to property taxes and still allow the entity to be flexible and responsive to market conditions. A quasi-governmental entity would also provide the land bank with the essential powers of a governmental entity while also instilling in stakeholders and the general public the confidence

that the land bank is independent and not simply another layer of government.

The home rule authority of Cook County should be used to establish the land bank and establish an independent Board of Directors to lead and oversee its activities. The Board will set policy and direction for all matters, including for acquisition, management, and disposition policies.

The land bank should:

- Be independent and a trustworthy partner with communities throughout Cook County
- Hold land tax-free
- Assist in scrubbing title
- Have the ability to acquire properties such as through negotiated agreements with banks and a “No Cash Bid” process (through the home rule status of Cook County or municipalities)
- Be nimble, flexible, responsive, efficient, and decisive

The role of the land bank Board would be to set policy that is executed by staff. It would set the budget and develop acquisition, asset management, and disposition policies. The Board should not have to approve each individual acquisition or disposition.

The TAP panelists recommended a two-tiered governance structure, with a main nine-member operating Board, a short-term Implementation Task Force, and a permanent Advisory Committee.

The nine-member land bank Board would include five governmental appointees and four nongovernmental appointees. They would hold staggered three-year terms, with a two-term limit.

Implementation Task Force

An initial and temporary Implementation Task Force focused on legal and technical issues would meet monthly for the first three months, and quarterly as

needed for up to two years. The Task Force would include one Assessor's Office designee, one Treasurer's Office designee, a County Clerk Office designee, a state representative, a State's Attorney representative, the Cook County Commissioner, one mayor, a state tax expert (not a property tax lawyer), and an individual from a title company. The purpose of the Task Force would be to set up processes and procedures for the acquisition and disposition of property.

The five government appointees would include:

- One City of Chicago Mayor designee
- One Alderman (chosen by City Council)
- One Cook County designee
- Two suburban mayors (one south suburban, one representative from the Metropolitan Mayors Caucus)

Advisory Committee

A permanent Advisory Committee, which would be appointed by the Board, would commence six to nine months after the land bank is established. It would be tasked with keeping the project on course and providing an opportunity among important stakeholders and experts for continuous input. The Committee would not make individual property decisions. It would include community representatives from the south suburbs and other suburban areas, a realtor, members of the banking and real estate community, for-profit and nonprofit residential developers, a regional planning organization, a representative from a building or housing association, and a commercial or institutional banker.

The four nongovernment appointees would include:

- One Community Development Financial Institution (CDFI), designated by the Cook County President's office
- One private bank with REO servicing expertise, designated by a local chapter of the Mortgage Bankers Association

- One nonprofit developer, designated by the Illinois Housing Council
- One commercial/industrial developer with large-scale national or significant regional experience, appointed by the Urban Land Institute Chicago

Staffing and Budget of the Land Bank

Staffing capacity will depend on the initial scope of work and the funding availability for a period until the land bank achieves self-sufficiency. To ensure adequate start-up funding, the TAP panel recommends a \$10.5 million budget to acquire, manage, and reuse up to 850 properties in the first year with a target of 2,550 properties over the first three years. Initial seed funds of approximately \$4 million per year over a three-year commitment should be provided and might include contributions from Attorney General settlements, grants, banks, and support from philanthropic institutions.

Staff would include:

- An executive director (with the power to implement strategies of the Board without having to go back to the Board for approval for each transaction)
- General counsel
- A portfolio manager to direct acquisition and disposition strategy
- Two asset managers
- Two acquisition managers
- A demolition specialist
- An administrative assistant

Other contractual services in the budget include web development, development officer, property management, CAD experts, accounting, design, legal services, and insurance. The TAP also recommends predevelopment grants be made available through intermediaries to nonprofit developers to ensure that there is capacity, especially in targeted acquisition areas, to redeploy these lands into new uses.

EXPENSES	
Salary and fringe	\$1,260,000
Professional services, supplies, rent, etc.	1,310,000
Insurance	200,000
Acquisition	1,750,000
Maintenance	475,000
Rehabilitation	1,750,000
Demolition/deconstruction	2,400,000
Predevelopment grants through intermediaries for nonprofit developers	1,200,000
TOTAL EXPENSES	\$10,345,000
REVENUE	
Initial investment (per year, for three years)	\$4,000,000
Sales	200,000
Rental income	100,000
Transaction fees	200,000
Property donation fees	6,000,000
TOTAL REVENUE	\$10,500,000
Gap/Surplus	\$155,000

Assumptions used in developing the budget include:

Total properties donated	600
Total properties acquired	250
Properties demolished (of those acquired)	150
Demolition per property	\$16,000
Maintenance (50 complex site)	\$1,500
Maintenance (800 simple site)	\$500
Property donation fee per property	\$10,000
Acquisition per property	\$7,000
Rehab fund per property	\$75,000

Acquisition & Disposition

Land banks can range in their mission from a model of “accept everything,” which entails owning all the problem properties and controlling all of their outcomes, to a purely transactional approach of acquiring property only when there is a defined end use and an identified partner.

The TAP panel recommended a proactive, targeted approach. This strategy would position the land bank, upon request, to acquire property in targeted geographic areas on the basis of agreements with municipal government or agencies and with local priorities and plans at the forefront. The strategy would focus on immediate and early impact (Phase 1: within the first 18 months), with a growing scale of operations over time (Phase 2). The strategy would also include responding quickly and nimbly on the basis of opportunities presented by municipalities and end users.

In Phase 1, the criteria for property selection should be that the property is vacant, abandoned, or tax delinquent, and unoccupied. Acquisitions should be based on local or regional plans and strategies in place for community stabilization and/or economic development, or priorities determined by local agencies and end users.

In Phase 2, the land bank should be willing to consider more complex projects, such as occupied buildings or

properties with environmental challenges. The land bank will continue to work closely with local municipalities in identifying and considering these properties.

Criteria for Acquisition

Properties can be donated through abandonment proceedings (in Chicago), a direct purchase, a transfer of properties from municipal governments or other land banks (such as the south suburban land bank), a scavenger sale, annual tax sale, no-cash bids, or temporary transfers of property for predevelopment purpose (for example, a Community Development Corporation (CDC) that needs time to complete regulatory procedures).

The TAP panel recommended the focus of initial acquisition be to: 1) facilitate purchases with the south suburban land bank; 2) explore purchases for other municipalities that have identified other properties for land bank acquisition; and 3) reach out to LISC, CIC, CCLF, NHS and other intermediaries in the community development field that know of opportunities and local capacity to execute redevelopment.

The TAP also warned the land bank to be cautious, but smart, in its initial transactions. Isolated, irregular properties are that way for a reason. While the land bank can provide a needed function of connecting interested buyers with available land, the goal of the



Once a property has been acquired, the land bank would work with third-party, local management groups to accomplish the necessary redevelopment. (Photos courtesy of Center for Community Progress (left), and NHS Chicago.)



For properties acquired under a long-term hold strategy, the land bank might employ intermediate uses, like urban agriculture or gardens. (Photo courtesy of ULI Chicago.)

land bank should not be to amass the largest number of properties, but to stabilize the market by being a catalyst for reuse, redevelopment, and repurposing of properties.

The panel noted it is imperative when identifying properties, the land bank work closely with residents and others who own property in the area. The TAP recommended community input be secured in “letters of agreement” between the land bank and property owners or municipalities. The letters would spell out the types of properties the municipality and the land bank want to pursue.

Asset Management

Once distressed properties or vacant land is acquired, they must be maintained and improved if they are to be returned to the community as an asset. The TAP recommended a third-party management group for the job. It also recommended the maintenance crew and services be local businesses and be well versed in local ordinances and other requirements. That said, while local hires are preferable, competence is better.

In a geographic span as large as Cook County, it will also be important to formally or informally involve local community groups, who can help keep track of problems or issues on the properties. It will also be imperative to have a centrally located team who can respond quickly to problems. It will be critical to have an inventory management system as a reporting tool. The data-driven system must be robust and provide “real time” reporting, both on problems but also on land bank holdings. Developers can use the data to identify where new housing or retail may be needed.

Asset Disposition Strategies

A land bank does not hold properties forever. Its goal is to see the properties rehabbed or reused in ways that benefit communities.

Ultimately, asset management is a portfolio management question: what can the land bank hold, what should it move out quickly, and when can it bring in cash? As such, the TAP recommended three disposition strategies for properties: a long-term, medium-term, and short-term strategy.

A long-term asset management and disposition strategy may call for the land bank to hold a property for months or even several years until the market rebounds or a reuse materializes. An intermediate use might include “adopt a lot” programs, urban agriculture and gardens, or storm water management. While holding the properties, the land bank should hold an umbrella insurance policy to protect itself from liability. A short-term strategy would be to sell the properties to sound developers with a proven track record.

Any strategy, whether short, medium, or long-term, should:

- Coordinate with local and regional plans and strategies for stabilization and/or economic development
- Prioritize areas with local development capacity
- Prioritize areas with local government requests

Not all property can be saved, and demolition is sometimes the only option. Community engagement will be critical to this process.

To be effective, the TAP panel recommended a disposition process that should:

- Be consistent and transparent
- Resist being too bureaucratic

- Respect local context
- Include negotiated sales, either fair market value or less than fair market value with a rationale for the sale
- Include qualified purchasers only (to weed out speculators)
- Keep end use preferences center (such as affordable housing)

Ultimately, it is critical that the land bank not be viewed as a development organization. A land bank’s purpose is to complement, not supplant, the hard work of the local grassroots organizations, municipalities, and the private market.

Conclusion

In summary, the panelists strongly believed there is a need for the establishment of a Cook County land bank. An independent, quasi-governmental entity that is flexible and responsive to current challenges will be able to facilitate the redevelopment and repurposing of vacant land and buildings in Cook County in partnership with local governments and organizations.

The land bank would fulfill a critical purpose – to return valuable resources to productive use, whether new housing, economic development, open space, or other uses.



The land bank could complement existing local efforts, and stabilize communities throughout the county. (Photo courtesy of Center for Community Progress.)

Stakeholder Appreciation

ULI Chicago thanks the sponsors, panelists, and stakeholders who participated in this process.

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