

# Memorandum

**TO:** Atlantic City Land Bank Exploratory Team

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**DATE:** October 4, 2024

**RE:** New Jersey Land Bank Launch Technical Assistance Scholarship: Exploring the Utility and Value of Creating a Land Bank in Atlantic City

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*This memorandum summarizes key takeaways, observations, and recommendations for the U.S. HART CARES leadership team (US HART) and the City of Atlantic City (City) to consider as they explore implementation of a land bank to address vacant, abandoned, and deteriorated (VAD) properties in Atlantic City.*

## Program Background

In July 2019, the “New Jersey Land Bank Law,” was signed into law.<sup>1</sup> The New Jersey Land Bank Law permits New Jersey municipalities to form land banks by entering into an agreement with either a nonprofit, municipal redevelopment entity, or county improvement authority to serve as the municipality’s land bank. However, the COVID-19 pandemic stalled efforts to capitalize on this new community development tool. In 2023, with renewed interest statewide to explore the potential of land banks to both address equitable development and help solve the quickly growing affordable housing crisis, the Center for Community Progress (Community Progress) and the Housing and Community Development Network of New Jersey (HCDNNJ) responded by partnering together to announce the **New Jersey Land Bank Launch initiative**.<sup>2</sup>

A key part of the **New Jersey Land Bank Launch initiative** was a scholarship program, announced in October 2023, for local governments and nonprofits interested in exploring a land bank as a tool to address their VAD property inventories. In early 2024, we selected US HART, a nonprofit based in Atlantic City, to receive no-cost technical assistance to help local stakeholders answer a fundamental question: *Would there be utility and value in creating a land bank to serve Atlantic City?*

## What is a Land Bank?

Virtually all communities have some inventory of VAD properties. These properties pose significant health and safety risks for residents and neighborhoods and disproportionately harm Black and Brown communities. VAD properties can be privately owned, but some communities have large inventories of

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<sup>1</sup> NJ Rev Stat § 40A:12A-74 *et seq.*

<sup>2</sup> For more information about the initiative, please see here: <https://communityprogress.org/services/technical-assistance/nj-land-bank-launch-initiative/>

publicly owned underutilized properties. Across the country, in communities with stagnant, weak housing markets and high levels of disinvestment, [land banks have proven to be a powerful tool](#) to address VAD properties and advance equitable revitalization outcomes consistent with community goals.

Land banks are public entities with unique powers to put VAD properties back to productive use according to community goals. A land bank's primary purpose is to acquire properties that some call "[blighted](#)" and temporarily hold and take care of them until they can be transferred to new, responsible owners. In some sense, land banks step in to stabilize neighborhoods when the private market has stepped out. Strategic, thoughtful, well-resourced land banks can move from stabilization to revitalization efforts that support inclusion, equity, and resiliency.

Land banks acquire the vast majority of their properties in two ways: (1) from the property tax-foreclosure pipeline (that is, properties that are auctioned off due to property tax delinquency but receive no private bids), and (2) bulk transfers of publicly owned surplus properties. Leading up to the pandemic, Community Progress estimated, based on our experience, that these two primary sources accounted for nearly 90% of all the property acquired and held by land banks across the country.

State laws give land banks their unique powers, which vary state-by-state. These unique powers enable them to undertake these activities far more effectively and efficiently than other public or nonprofit entities. When thoughtfully executed, land banks can resolve some of the toughest barriers to returning land to productive use, helping to unlock the value of problem properties, and converting them into assets for community revitalization.

## Land Banks in New Jersey

Before assessing the utility and value of creating a land bank to serve Atlantic City *specifically*, it is worth noting two key limitations of land banks in New Jersey *broadly*.

First, New Jersey state law requires municipalities to first offer the sale of tax liens (the debt, not the "dirt") to private bidders via auction. As we have seen in other states, this practice undercuts the ability of land banks to cost-effectively and predictably acquire VAD properties because it transfers the right of foreclosure from the local government to a private actor.<sup>3</sup> If a tax lien receives no private bid when auctioned, only then can the municipality acquire the certificate and exercise its right of foreclosure if the owner does not redeem (i.e., paid back all the unpaid taxes, interests, and charges) within six months. In most New Jersey municipalities, the vast majority of tax liens are purchased by private bidders, leaving very few properties left in a land bank's primary acquisition pipeline.

Second, the housing markets in many cities across New Jersey—especially those closer to New York City—have rapidly appreciated in value the last few years. Properties that were once distressed and passed over by the private market are now seen as having value, a dynamic that has attracted significant speculative activity and corporate and institutional purchasers. While seeing more investments in distressed neighborhoods is a positive trend, these market dynamics narrow even further the pipeline of VAD properties that slide into tax foreclosure and into the hands of municipalities, it has also transformed (almost overnight) the value of those surplus properties long-held by local governments.

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<sup>3</sup> The practice of the sale of tax liens is harmful in a number of ways. To learn more, read this blog post by Community Progress: ["What is a tax lien sale, and why is it a bad way of dealing with vacant properties?"](#)

In other words, the two primary sources of properties for any land bank are significantly narrowed in many New Jersey communities. These two limitations do not mean land banks have no utility or value in New Jersey communities, just that the current legal and market dynamics must be acknowledged and thoughtfully considered when exploring if a land bank is worth creating.<sup>4</sup>

## A Land Bank in Atlantic City

To help US HART and the City (Local Team) explore the utility and value of a land bank serving the community, Community Progress carried out a number of activities under this scholarship engagement, primarily:

- Virtual and in-person interviews;
- Biweekly calls with the Local Team;
- A review of available parcel and market data, programs, policies, and relevant state laws; and
- A two-day site visit with individual and group interviews.

These assessment activities uncovered some real or perceived dynamics at the local level that must be carefully contemplated before implementing a land bank, as well as some promising findings and local strengths that correlate well with successful, impactful land banks.

Ultimately, we found that while a land bank may be a useful tool in Atlantic City, there is more that needs to be done to ensure the process of creating the land bank is transparent, to clarify the land bank's specific role and utility in Atlantic City, and to best position the land bank and the community for future success. The remainder of this memorandum outlines our observations and recommendations to help the City, in partnership with US HART and others, take the next steps in shaping the Atlantic City Land Bank.

## Four Limiting Factors Unique to Atlantic City

First, Atlantic City has faced significant fiscal challenges for nearly a decade. Since 2016, the City has been under state oversight as authorized by the 2016 Municipal Stabilization and Recovery Act, which was passed by the state legislature and signed by then Governor Chris Christie. In the early years under state oversight, City leaders, public union members, and taxpayers made some incredibly selfless concessions that demonstrated extreme community pride. Over the last few years, and with a more respectful partnership with the current Murphy administration—embodied and championed by the late Lieutenant Governor Sheila Oliver—Atlantic City steadily stabilized and strengthened its finances. While this is tremendous progress, the City remains under fiscal oversight, which means the proposal to create a new land bank likely needs to survive state scrutiny and receive some form of approval from the state monitors. Since that could mean transferring existing City-owned surplus properties and future tax-foreclosed properties to the land bank's control to produce more **equitable outcomes** instead of auctioning off such properties for the **highest bid**, it is critical that the Local Team be comprehensive in its exploration and thoughtful in its execution of creating a local land bank.

Second, the Casino Reinvestment Development Authority (CRDA), a state-authorized entity, plays a significant role in land ownership and land use decisions in Atlantic City. According to many local stakeholders and officials, CRDA is the largest holder of public land in the community (by acreage).

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<sup>4</sup> As part of the New Jersey Land Bank Launch initiative, Community Progress and HCDNNJ developed an educational resource about land banking in New Jersey, which is available here: <https://communityprogress.org/publications/land-banks-in-new-jersey/>.

However, accessing CRDA land for community priorities or to support equitable, inclusive development has historically presented challenges—for City leaders and community groups. Fortunately, many of those interviewed shared an emergent optimism towards new leadership at CRDA and expressed hope for increased collaboration between CRDA, the City, and community groups. A new land bank in Atlantic City could still achieve positive impact for the residents, particularly those in the North Side, but a strong commitment from and partnership with CRDA—the public entity in Atlantic City with the largest portfolio of vacant land—would be needed to *maximize* impact.

Third, because Atlantic City has been and remains vulnerable to extreme flooding challenges, the City has adopted a number of land use and policy reforms to improve resiliency and reduce the number of structures and residents that are at risk of flooding damage. Take for example the City’s participation in Federal Emergency Management Agency’s Community Rating System (CRS), which is a way to reduce the costs of flood insurance for all structures within a community by passing land-use and zoning reforms that improve resiliency. The City’s recent actions and policy decisions pursuant to CRS generate significant savings to property owners on annual flood insurance premiums. However, these CRS reforms also place real barriers (or costly requirements) in rehabilitating significantly distressed properties or building residential infill on vacant lots. For example, it is not permitted to rehabilitate a residential property in any part of the city if the costs to do so are more than 50% of the property’s fair market value. Instead, the property must be demolished, and any new structure must have its living spaces well above base flood elevation levels—which means building a home on pillars. Again, these are smart land use and floodplain management reforms that aim to protect life and property from future flooding events, which will only increase in frequency and intensity. But they also present unique challenges for a community that wants to strategically embark on revitalizing neighborhoods of Black legacy residents that have long suffered from VAD properties and disinvestment, such as the North Side.

Finally, we heard, in varying degrees, a consistent message from all those we engaged: there is a deep mistrust among residents (particularly those most vulnerable and underserved) when it comes to ‘government.’ We see this in many communities, but there was something unique about this dynamic in Atlantic City. It was not necessarily mistrust in City Hall, but mistrust toward state government and its agents. It was a racialized mistrust born from decades of wealth being extracted from Black neighborhoods by non-Black powerbrokers—and what was characterized by some as “New Jersey-style” level of corruption from elected officials at virtually all levels of government. A land bank’s sole purpose is to acquire and address “blighted properties” in those neighborhoods most impacted by chronic vacancy and historic disinvestment. This story has been told before (urban renewal), and Black neighborhoods did not fare well. Any effort to create a land bank in Atlantic City must be sensitive to this traumatic history and proceed thoughtfully in a manner that seeks to build trust, exhibit transparency, and invite accountability every step of the way.

## Promising Findings and Local Strengths

First, Community Progress was awed by the pride and passion local stakeholders had for their community, as well as the excellence and competence the Local Team and City officials demonstrated throughout this engagement. Many cities struggling with structural and significant fiscal challenges have challenges attracting talent. Not Atlantic City. Many of the public servants we interviewed were some of the most impressive professionals we have encountered in years. Similarly, the leadership team at US HART brings an impressive array of skillsets, expertise, and principles that could be of tremendous value to a land bank.

Second, there is strong support from political leadership. Mayor Smalls expressed his support for US HART’s application to this scholarship program. The City’s Business Administrator was excited by this project, as he previously had interest in exploring whether a land bank could advance the City’s

community development goals. And some of the City’s legislators, Council President Aaron Randolph and Councilmember Kaleem Shabazz, were both engaged throughout this project and expressed strong support for a land bank in service to those legacy residents most in need.

Third, City leadership is positioning itself to deliver on the promise and potential of strategic land use. In August 2024, the City held an auction of surplus properties and leadership stated that it would be the last auction of surplus properties until there is a final decision made about the land bank. There are about 150 properties that can be foreclosed upon by the City (no private bids were offered for the tax debt in prior tax lien auctions and the six-month redemption period has passed, so the City can now complete a tax foreclosure). Once completed, the City can contemplate transferring to the land bank a batch of these surplus properties for stewardship and redevelopment.

Fourth, as mentioned above, the City’s finances are stable and continue to improve. The worst days are in the rearview mirror. If there ever was a time to make strategic investments in building a more inclusive, equitable, and resilient community—that centers those legacy residents most impacted by historic disinvestment and overlooked for too long—it is now.

Finally, Atlantic City has intentionally worked to build the ecosystem of community development corporations (CDCs) serving residents and neighborhoods, at times leveraging key anchor institutions or fostering creative partnerships. The results are paying off. This last year, [four neighborhood CDCs](#) were awarded \$1 million each from the state’s Neighborhood Revitalization Tax Credit Program (NRTC) to support neighborhood revitalization efforts—the first time Atlantic City-based nonprofits were included in the annual allocation of NRTC funds.

## Recommendations

Based on the above findings and insights shared by local stakeholders, we offer the following recommendations, grouped under either short-term or mid-term time horizons. It is important for the City, US HART, and others to contemplate them in order, because mid-term actions cannot be pursued successfully until the short-term actions are engaged and implemented.

### Creating a Land Bank: Short-Term (0 to 3 months)

There needs to be some additional conversations within City leadership about the following before stakeholders pursue action on mid-term recommendations. At minimum, there must be agreement among political leadership on the following three principles:

1. **A Land Bank Produces Better Outcomes than an Auction.** Both New Jersey law and recent U.S. Supreme Court decisions related to tax foreclosure make clear that the private market will almost always get the first crack at purchasing properties via tax foreclosure, usually via some kind of public auction. That said, we believe there will continue to be some VAD properties that do not generate interest from the private market and will fall under the City’s control as “surplus properties.”<sup>5</sup> For those surplus properties that do come under the City’s control, there should be an understanding that the City will first offer all surplus properties to the land bank for no cost or a nominal cost and use auction *only as a last resort or unless otherwise required by law*. Land is

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<sup>5</sup> As a reminder, this term “surplus properties” is used to describe the following type of properties: (1) tax delinquent properties that were offered at the annual tax certificate sale and on which no private bidder offered at least the minimum bid, leaving them within the City’s control to foreclose on the unpaid taxes and take title to the property; and (2) tax delinquent properties where the City held (or holds) the tax certificate per “1” above AND sought to foreclose AND a public auction was requested/held AND no one bid at least the minimum amount of the unpaid taxes plus interest, and other charges and fees owed at the public auction.

a community's second greatest asset, second only to its people. Land shapes our relations to each other, can reflect our principles, offers wealth and control. How land is reused can promote security or vulnerability; either heal inequities or exacerbate them.

Auctions may help bring in revenue quickly, but they also privilege those with access to cash and yield unpredictable outcomes. As land values are quickly appreciating and a housing crisis worsens, local leaders should pursue strategic reuses on any distressed parcel that happens to default to the municipality. Thus, before moving forward with creating a land bank, political leadership needs to agree that a land bank not only is a useful community development tool, but also represents a new, alternative way of handling tax foreclosures—and commit to it.

2. **A Land Bank Must be Resourced.** No land bank can be self-sustaining. Land banks are designed to acquire, steward, and transform unwanted vacant and deteriorated properties into assets that serve neighbors and neighborhoods. This work is costly and will need to be resourced. Consider the land bank more as an extension of local government that will help protect residents from the harms of neglected, deteriorated properties; attract responsible investment in underserved areas; promote reuses consistent with neighborhood plans and City priorities; and become a trusted partner to those neighborhoods long neglected. This work needs to be resourced, and the City should commit to an annual appropriation to the land bank to cover, at minimum, operating costs. The land bank would be expected, then, to bring in grants and dollars from other entities to carry out its critical work.
3. **Bring CRDA to the Table.** City leadership needs to commit its influence and advocacy to bring CRDA to the table to support the land bank with both funding and land transfers. There is no doubt City leadership may already have its own priorities as it engages CRDA around collaborative opportunities. However, City leadership must also prioritize the land bank in any future conversations and negotiations. While there may be a need to first educate CRDA around the intent and role of the land bank, there should be a goal to secure from CRDA some funding for the land bank in the first year of operations, and the transfer of some parcels within the second year of operations.

When political leadership reaches agreement on the above, the City is encouraged to move to the mid-term recommendations.

## Creating a Land Bank: Mid-Term (3 to 12 months)

With the Mayoral administration and City Council (and state if appropriate) in agreement on the above, City leadership should consider these next steps:

1. **Develop and Issue a Competitive Solicitation.** We strongly recommend the City create a transparent, open, competitive bidding process to select a nonprofit as the City's land bank. Given the racialized disinvestment in Atlantic City, a history of corruption and lack of mistrust in government entities and officials, state oversight of all areas of redevelopment, and a strong need for transparency, both the City and US HART would be far better positioned to rethink the process by which it establishes the land bank in a way that fosters public trust—and would survive the oversight of state scrutiny. The competitive solicitation not only would ask interested, eligible entities to clarify their experience and understanding in undertaking this work, but also should include information that clarifies the City's commitments to the success of the land bank (e.g. annual appropriation, annual transfer of surplus properties, etc.). This is a transparent process that holds BOTH parties accountable and signals to community stakeholders and residents most impacted by vacancy and disinvestment that this will be an open, honest,

collaborative endeavor that always seeks to build trust. Please see **Appendix A** for guidance on the proposed competitive solicitation.

It bears clarifying that we believe the US HART leadership team, with its diverse set of skills, should be involved with the land bank in some way. Should they choose to respond to this solicitation, they would certainly have a competitive submission. Should the individuals opt instead to nurture and steer the land bank (as board members, for example), their experience and passion would be invaluable. And should they choose to focus on mission-driven, real estate development and collaborate with the land bank, they would be an exceptional resource and partner. What role the US HART leaders ultimately choose to play is uncertain; what is certain is that none of this momentum around a land bank would have been possible without their focus, leadership, and passion.

2. **Select and designate an entity to serve as the City's land bank and enter into a Land Bank Agreement.** The Land Bank Agreement is the instrument, per state law, that clarifies the role, powers, and procedures a land bank can exercise in service to the designating government. It is critical to be thoughtful and collaborative when co-developing this agreement, and local counsel must give this the priority it deserves. Please see **Appendix B** for additional guidance on crafting the Land Bank Agreement.

## Conclusion

The primary goal of this scholarship engagement was to help Atlantic City answer a key question: *would there be utility in value in creating a land bank?*

Ultimately, we found that while a land bank may be a useful tool in Atlantic City, there is more that needs to be done to ensure the process of creating the land bank is transparent, to clarify the land bank's specific role and utility in Atlantic City, and to best position the land bank and the community for future success. We hope the guidance and insights detailed in this memo prove useful to City leadership, the US HART leadership team, and community partners in how to move forward. Community Progress remains available as a resource and thought partner to the Local Team as it prioritizes next steps, and is deeply grateful for the opportunity to meet, learn from, and support local champions for inclusive, equitable development in Atlantic City.

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## Appendix A. Competitive Solicitation Guidance

Procurement rules vary widely across local governments, as do practice and preferences. For these reasons, it was not possible to draft a competitive solicitation specific for Atlantic City with the limited time available under this scholarship. Still, we suggest some content for the City to consider as it develops a competitive solicitation seeking eligible entities interested in serving as the Atlantic City Land Bank.

### Background Context

The solicitation should include a link to the 2019 New Jersey Land Bank Law<sup>6</sup> and reference the resource developed through this initiative by Community Progress and Housing Community Development Network of NJ, [\*Land Banks in New Jersey: A Tool for Addressing Problem Properties to Serve Community Goals\*](#).

### Eligible Entities

The solicitation should clarify that, per state law, only certain entities are eligible for designation as a land bank: (1) nonprofit incorporated in New Jersey, (2) municipal redevelopment authority, or (3) county improvement authority.

### Goal and Principles

The City may want to include a couple paragraphs describing why it seeks a land bank and clarify the values and principles it hopes the land bank to both demonstrate and advance. If the City wants a land bank to carry out its work with a commitment to serving the North Side and those neighborhoods most impacted by vacancy, then express that. If it expects the land bank to carry out its work with a commitment to transparency, accountability, and in support of equity and resiliency, then express that. This is a chance for the administration to define the principles and values that matter most and set expectations as to how the land bank carries out its work.

### Organizational Information and Eligibility (as applicable or preferred):

The solicitation should request all the appropriate (or preferred) information and documentation to ensure the respondent meets the eligibility requirements of the NJ Land Bank Act. Such documents or information could include:

- Federal Tax ID & IRS Form W-9
- Evidence of required Nonprofit Status and most recent audit - *obtained or pending*
- List Board of Directors and Chief Executive Officer
- Professional bios from key team members
- Legal Representation and/or Registered Agent
- Organizational Accountant
- Proof of Registration to do business within the state of NJ;

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<sup>6</sup> NJ Rev Stat § 40A:12A-74 *et seq.* available on the New Jersey Legislature's website at: [https://pub.njleg.gov/bills/2018/PL19/159\\_.htm](https://pub.njleg.gov/bills/2018/PL19/159_.htm)



- Proof of Registration with the NJ Division of Revenue & Enterprise Services (DORES);
- Proof of Registered and/or Certification as a Small Business, Minority/Woman Owned Business Enterprise, Veteran/Disabled Veteran Owned Business Enterprise, and/or Socially and Economically Disadvantaged Business Enterprise in NJ;
- Include any certifications obtained outside the state of New Jersey

## Professional Capacity

The solicitation should seek to better understand the professional capacity and expertise of responding nonprofits and whether it aligns with the work of a land bank. Across the country, there is no specific ‘template’ for effective leadership. While many executive directors have backgrounds in urban planning or some aspect of community development, there have also been lawyers, social workers, and others that have performed with excellence at land bank leadership positions. The City need not establish any ‘minimum’ requirements that narrow the pool of eligible respondents, in other words. Instead, focus on: (1) gathering sufficient information about the professional experience, personal values, and principled commitment to a revitalized Atlantic City that is more equitable, inclusive, and resilient, and (2) ensuring there are no conflicts of interest that would undermine public trust and torpedo the land bank. Some items to consider:

- Required years of applicable professional experience (1) in the state of New Jersey and (2) elsewhere.
- Current property ownership (1) within the state of New Jersey and (2) elsewhere.
- Past real estate projects developed (1) within the state of New Jersey and (2) elsewhere.
- Evidence of relevant and/or desired expertise including:
  - large or small-scale real estate development,
  - residential or commercial development,
  - property management,
  - community engagement, and
  - program design and delivery.

## Development Priorities (if applicable)

If the City has certain development goals it would want the land bank to prioritize, this is the time to state them clearly and transparently. For example:

- Geographies: Should the land bank focus on neighborhoods with the highest concentrations of underutilized public properties or the neighborhoods with the highest need for investment and new, affordable housing?
- Housing Tenure and Population: Presuming the City wants some form of housing to be a priority, what type of housing is most in need—emergency or transitional, long-term rental, or homeownership—and does the City expect the land bank to prioritize one over another? Similarly, is there a specific population in need, such as the homeless, young adults aging out of foster care, seniors, or young families, that the City expects the land bank to prioritize serving?
- Type of Development: Does the City want the land bank to focus on infill residential on small vacant lots, activating neighborhood commercial corridors, or redeveloping large tracts of vacant land with multi-family residential or mixed-use projects?

If it does express priorities, the City should acknowledge that the properties the land bank may acquire will largely be contingent on which vacant properties are eventually foreclosed upon for delinquent taxes (or which parcels CRDA is willing to transfer), and that alone may limit (or dictate) the land bank's focus.

## Public Engagement, Transparency, and Accountability

The City should, *at minimum*, express the legal requirements, per state law, for public engagement, transparency, and accountability. The City should then include any additional expectations it has for the land bank to authentically engage community members and commit to both transparency and accountability. Minimum content:

- Clarify and outline the state requirement to establish and maintain a “Community Advisory Board” subject to N.J.S.A. 40A:12A-84: Community advisory board; establishment; members; duties and responsibilities.
- State requirement to establish and maintain a “public, web-based database of current and former Landbank properties,” as described in N.J.S.A. 40A:12A-84.
- The land bank shall provide an annual report to City Council and the public describing the properties being held by the land bank and its activities over the last year, as described in N.J.S.A. 40A: 12A-85.

## Properties, Funding, and Support

The City should clarify what it can and cannot do when it comes to properties, funding, and in-kind support. The responding entities should clearly understand the commitments of the City in entering this potential partnership, which will help build trust, respect, and confidence in carrying out the work. Atlantic City might commit to the following (even if that might require a conditional clause like, “to the extent funding and resources are available and subject to City Council approval”):

- An annual appropriation to the land bank for the first five years to cover operating costs up to a certain amount
- Transfer of [up to a number] of properties from the City's pending foreclosure list within the first year of operation, at a nominal cost
  - The City may even want to mention, “A list of the pending tax foreclosures that the City can potentially transfer to the land bank is available upon request.” This demonstrates a commitment to partnership and transparency.
- In-kind support, such as limited, select access to the City's robust data systems to help the land bank forecast needs, investigate acquisition opportunities, and discuss with community members reuse opportunities

The City should also request from respondents a draft operations budget and potential funding partners and/or sources that might be brought to bear to carry out the work. This may include state grant programs, philanthropic grants, CDFIs, and private equity.

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## Appendix B. Land Bank Agreement Guidance

Once Atlantic City selects the appropriate nonprofit partner to serve as the Land Bank, it must begin to work with that entity to outline the terms of the Land Bank Agreement (Agreement). Per New Jersey’s Land Bank Act (Act), a “land banking agreement shall establish the responsibilities of the land bank entity and shall specify the terms and conditions under which the land bank entity may acquire property on behalf of the municipality, demolish and otherwise clear buildings and conduct other site improvements located on the property, maintain and secure the property, conduct other activities on the property, and, [to the extent allowed by law, to] lease or convey property held on behalf of the municipality.”<sup>7</sup>

Approval of this Agreement by City Council in the manner proscribed under the Act is needed to create the land bank. Key procedural steps that must be followed include:

- Before City Council holds a vote to approve the Agreement, the City must “hold a public meeting to solicit the advice of the public on the substance and intent of the land banking agreement.”<sup>8</sup>
- Include in the ordinance approving the Agreement “findings establishing the need for land bank activity in the municipality, the public purpose that the municipality intends the land bank entity to pursue, and the qualifications of the land bank entity to carry out the responsibilities...”<sup>9</sup>
- City Council approves the Agreement via ordinance.<sup>10</sup>
- The board of the nonprofit entity established as the land bank approves a resolution to become the City’s land bank.<sup>11</sup>

The City and nonprofit selected as the land bank should consult with local attorneys to determine additional formation steps required by New Jersey or local law, as well as the order in which these steps are undertaken.

The following is a list of key items the City and its land bank partner should consider as it develops the framework and content of the Agreement, as well as how it might put in place initial policies and procedures to guide land bank decisions and activities. Items with an asterisk (\*) denote matters that should likely be directly addressed in the Agreement.

### Governance

1. **If the land bank is a nonprofit, its bylaws must be amended to include the Chief Financial Officer (CFO) of Atlantic City on its board.\***

A municipality may enter into a land banking agreement with a nonprofit entity, so long as the bylaws of the nonprofit provide that the CFO the municipality serves on the board of the

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<sup>7</sup> NJSA 40A: 12A-78(a).

<sup>8</sup> NJSA 40A: 12A-78(b).

<sup>9</sup> NJSA 40A: 12A-78(c).

<sup>10</sup> NJSA 40A: 12A-78(d).

<sup>11</sup> *Id.*

nonprofit.<sup>12</sup> The City and the nonprofit entity should consult local legal counsel to determine the timing of this move (e.g., prior to or post approval of the agreement by City Council).

2. **Establish Community Advisory Board within six months of land bank formation, with clear mechanisms for board appointments and authorities.\***

The Land Bank Act requires that the land bank create a community advisory board (CAB) within six months of its designation of a land bank by the municipality.<sup>13</sup> Representatives on the CAB must come from recognized community associations and nonprofit organizations operating within the land bank’s jurisdiction, “including those associations and organizations active in areas where the land bank entity anticipates holding properties.”<sup>14</sup> The Act does not confer any decision-making authority to the CAB. However, it does not *prohibit* the Agreement or the nonprofit entity from granting significant weight to CAB recommendations either in practice or by memorializing such authority in the Agreement or in the nonprofit entity’s land bank policies and procedures.

To build trust with the Atlantic City community, especially those residents and leaders representing on the North Side neighborhoods, and to ensure the land bank’s activities are meeting community needs, the Agreement could establish the CAB’s authority to approve or shape land bank priorities and policies, including, for example, helping to develop and shape the land bank’s acquisition and disposition policies. Note that this is not required under the Act, but it may be worthwhile to engage local attorneys to help craft language shaping the CAB’s potential role either in the Agreement or in the land bank’s policies and procedures governing the CAB’s activities (see #3 below).

If the Agreement does include additional detail on the role of the CAB, it may also make sense to clarify in the Agreement the desired size of the CAB and which party (i.e., the nonprofit entity or the City) has the authority to make CAB appointments. Community Progress would strongly suggest the City have the authority to appoint a majority of CAB members.

3. **Establish CAB Policies and Procedures in coordination with the Land Bank Board and CAB.**

It is *imperative* that community goals drive the land bank’s acquisition and disposition decisions. Using an inclusive process to set CAB policies and procedures builds trust with the community and ensures the land bank staff is aware of community priorities when making final acquisition and disposition decisions.

## Acquisition

4. **Consider transferring publicly held properties to the land bank at no cost.\***

In order for land banks to do their important work of meeting community goals, they need a systematic and cost-effective process for acquiring distressed, vacant properties. Any vacant properties currently owned by the City and not being held for a specific governmental purpose or use could be transferred to the control of the land bank via the Agreement or a separate trust agreement as expeditiously as possible, and at no cost so the land bank can use its limited resources on maintenance and reuse.<sup>15</sup>

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<sup>12</sup> NJSA 40A: 12A-77

<sup>13</sup> NJSA 40A: 12:A-84

<sup>14</sup> NJSA 40A: 12:A-84

<sup>15</sup> The Act grants municipalities the authority to authorize the Land Bank to manage and control the disposition of City property, however, the City and Land Bank should consult with local attorneys to ensure that the eventual sale or transfer of such property is done in

## 5. Consider permitting other acquisition pathways and strategies.

As part of the Agreement the City and land bank should identify what role the land bank will play in acquiring vacant properties on the City's behalf. For example,

- a. The Agreement should allow the land bank to acquire property on the City's behalf through "contribution, gift, grant, bequest, purchase or otherwise."<sup>16</sup>
- b. The Agreement could also grant the land bank the ability to undertake the following actions on the City's behalf as a means to acquire vacant properties:<sup>17</sup>
  - i. Purchase tax and other City liens;
  - ii. Foreclose on tax and other City liens; and
  - iii. Conduct individual abandoned property takings under the New Jersey Urban Redevelopment Act.

## Holding & Leasing

### 6. Consider whether a separate trust agreement is needed to authorize the land bank to hold property on behalf of the municipality and to take certain land bank actions.\*

The Agreement, or a separate trust agreement adopted via ordinance, should establish the extent to which the land bank shall hold, convey, and lease property owned by the municipality, as well as to conduct other land banking activities without municipal authorization for each individual conveyance or action.<sup>18</sup> As noted in the Act, if this authority is provided in the land banking agreement, "each trust agreement shall provide the land bank entity with all the powers of property ownership, subject to the potential termination of the land banking agreement..."<sup>19</sup> It should also outline the way in which the land bank will hold and manage tax or other liens assigned by the City to the land bank (see #5 above).

### 7. Grant the land bank ability to hold properties tax exempt.\*

The land bank should be explicitly granted the ability to hold properties tax exempt in order to preserve their limited resources for maintenance and reuse activities. This is a vital power for land banks given the heavy costs of holding and maintaining properties. While we understand the City's desire to get these properties in tax paying status as quickly as possible, putting that tax burden on the land bank will impair its ability to carry out its mission and reach the longer-term outcomes desired by the City and residents.

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compliance with recent changes to the New Jersey Revised Statutes contained in [A-3772/S-2334](#) (P.L.2024, c.39) and the U.S. Supreme Court's Decision in *Tyler v. Hennepin County*, 598 U.S. 631 (2023).

<sup>16</sup> See NJSA 40A: 12A-79(a).

<sup>17</sup> See NJSA 40A: 12A-79(b).

<sup>18</sup> See NJSA 40A: 12A-80.

<sup>19</sup> *Id.*

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## Disposition

### 8. **Allow for disposition of properties by approval of the nonprofit/land bank board.\***

Many municipalities are straddled with inflexible policies dictating the sale of public property, limiting the ability to be strategic and achieve desired outcomes. Public disposition processes often lack transparency and can be highly politicized. Having a transparent disposition process, and building trust with the community, is foundational to a land bank's success. Granting the land bank board the ability to dispose of properties, without additional approval by the local government, is a best practice in the national field. This may be accomplished through the Agreement and/or the trust agreement (see #6 above).

## Staffing and Operations

### 9. **Consider hiring new staff to manage land bank operations.**

Depending on the entity selected to act as the land bank, the land bank can leverage the organization's or its board's existing expertise, capacity, and, if applicable, network of developers and other relationships. Beyond this, it would be ideal if the land bank could hire or contract part-time with a new staff person who has a deep understanding of the community's needs, project management experience, and, to some degree, knowledge of community development. The new staff person should not only be responsible for supporting the operational functions of the land bank, but also building partnerships, attending community events, providing educational opportunities about the land bank to other stakeholders, and supporting the CAB. This staff person might also spend part of their time in the land bank's office and another part of their time working at City Hall and developing relationships with City staff.

### 10. **Launch an online database with ownership information for all current and former land bank properties in compliance with the Law Bank Law.**

The Act requires that the land bank make a publicly available database on their website that lists all "current and former land bank properties, each owner of record since each property became a land bank property, and the sales price of each land bank property that has been purchased by the land bank entity."<sup>20</sup>

In keeping with its purpose to protect and promote transparency and integrity in land bank operations, the CAB is required to report annually on the "accuracy, integrity, accessibility, and comprehensiveness" of the property databases the land bank is required to create and maintain.<sup>21</sup>

### 11. **Engage in land bank board training for new land bank board members.**

Board members should be given adequate training to understand the mission and authorities of the land bank. This will be important to guide decision making and future land bank strategies, and also ensure board members understand the value of the land bank and advocate for its work.

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<sup>20</sup> N.J.S.A. 40A: 12A-84

<sup>21</sup> N.J.S.A. 40A: 12A-84

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## Funding

### 12. **Allow the land bank the ability to retain lease or sales proceeds.\***

Nationally, land banks reported that 33 percent of their funding came from the real estate sales revenue.<sup>22</sup> This funding source is important for a land bank to carry out its mission, and therefore the Agreement should ensure the land bank can retain revenue from real estate transactions.<sup>23</sup>

### 13. **Exercise 10/50 property tax recapture option for properties that received land bank intervention as permitted by state law.\***

The Act allows for the Agreement to authorize payments from the City to the land bank to fund land bank operations in an amount of up to 50 percent of taxes collected on certain properties sold by the land bank for up to ten years after the property is sold.<sup>24</sup> This would mean that after the land bank sells a property and it returns to taxable status (following a minimum two-year period in which the owner failed to pay taxes), the City could authorize an annual payment to the land bank in an amount equal to 50 percent of the property taxes paid to the land bank for the next ten years. After this period, 100 percent of the taxes would be sent to the respective taxing bodies. This tax recapture can be used to support the operations of the land bank.

### 14. **Consider annual appropriations to the land bank from the City.\***

Nationally, land banks reported that their primary source of funding, nearly 37 percent of all their revenue, comes from direct governmental appropriations.<sup>25</sup> The City should commit an annual appropriation to the land bank and should stipulate the amount and for how long. This is not explicitly authorized in the Act, and local attorneys should be consulted as to how or whether this could be authorized in the Agreement itself.

### 15. **Consider a provision that both entities will commit reasonable efforts to secure funding for the land bank.\***

Addressing VAD properties can be a costly endeavor. Ensuring the land bank is adequately funded to tackle the scale and scope of VAD properties in Atlantic City will require a continual and committed effort. The City and land bank should each take responsibility for soliciting and securing funding to support the land bank's operation and advance its mission.

It is common for land banks to seek financial support from philanthropic partners during their start-up phase. Local, regional, or even national funders might find supporting the land bank's initial phase as an exciting opportunity, particularly when establishing specific programs focused on issues like health equity, community safety, food security, and affordable housing.

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<sup>22</sup> Center for Community Progress, National Land Bank Network Annual Survey (2023), available at <https://communityprogress.org/publications/2022-update-from-the-national-land-bank-network/>.

<sup>23</sup> NJSA 40A:12A-89(b).

<sup>24</sup> NJSA 40A:12A-89(a).

<sup>25</sup> Center for Community Progress, National Land Bank Network Annual Survey (2023), available at <https://communityprogress.org/publications/2022-update-from-the-national-land-bank-network/>.