

2024 Land Bank Feasibility Report



Respectfully Submitted to:

**The Vermont Senate Committee on Economic Development, Housing and General Affairs
and**

The Vermont House Committee on General and Housing

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Executive Summary

The 2024 Vermont State Legislature passed a housing omnibus bill that Governor Scott signed into law as Act 181. Section 111 of this bill, directed the Department of Housing and Community Development and The Vermont League of Cities and Towns to study the feasibility of creating a statewide land bank program. This study was due to be submitted to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General and Housing on December 15, 2024, with an extension granted for January 15, 2025.¹ Below is an excerpt from this legislation.

The Department of Housing and Community Development and the Vermont League of Cities and Towns shall analyze the feasibility of a land bank program that would identify, acquire, and restore to productive use vacant, abandoned, contaminated, and distressed properties.

What is a Land Bank?

A land bank is a public entity with unique powers to put vacant, abandoned, deteriorated, and tax-delinquent properties back into productive use according to community goals.² Land banks are accountable to the public given their status as quasi-governmental entities.

Problems land banks can help address:

- Vacant, abandoned, deteriorated properties.
- Properties with “cloudy” or unmarketable titles.
- Property with little market value.
- Restrictive public property disposition and/or funding requirements.

What land banks can do:

- Acquire tax foreclosed property cost effectively.
- Extinguish liens and clear title.
- Hold property tax exempt.
- Generate and collect revenue from delinquent tax fees, tax recapture, or other funding mechanisms.

¹ <https://legislature.vermont.gov/Documents/2024/Docs/ACTS/ACT181/ACT181%20As%20Enacted.pdf>, Section 111, pgs. 165-166.

² Brian Larkin, “Land Banking 101”, National Land Bank Network, pg4. <https://communityprogress.org/wp-content/uploads/2024/06/vad-academy-2024-land-banking-101.pdf>

- Make flexible disposition decisions, driven not by highest price but by best outcome.

What land banks are not:

- Simple community development corporations (CDCs).
- Financial institutions (no cashing checks).
- Get-rich-quick agencies.

Background

The State of Vermont contracted with the Vermont Housing Financing Agency (VHFA) to complete the 2025-2029 Statewide Housing Needs Assessment. Through this assessment, VHFA estimates that there are 10,879 vacant and abandoned homes throughout the state, representing 3% of the housing stock.³

Most available studies on the impact of vacant and abandoned properties were conducted in urban areas during the foreclosure crisis (2007-2010). However, a 2023 study of vacant properties in rural areas in the state of Georgia, found that rural counties have double the vacancy rate than non-rural counties and that residential vacancies increased by 25% in rural counties from 2010 to 2021. Urban counties' vacancy rates decreased by 1% over the same period.⁴ Rural communities also face significant barriers to addressing abandoned properties:

- Properties are physically farther apart from one another.
- More properties have unmarketable or cloudy titles.
- The cost to rehabilitate the property often exceeds the market value or the owners' financial capacity.

To tackle the negative impacts of vacant and abandoned properties on communities in Vermont, the Department of Housing & Community Development (DHCD) has been exploring the logistics and potential support for legislation to enable the creation and funding of a statewide land bank in Vermont. Depending on how they are structured, land banks can help communities with a wide range of land use and development opportunities, including:

- Redevelopment of vacant structures (housing and commercial).
- Development of new housing.
- Assist neighboring farms to acquire abandoned agricultural land.

³ [Vermont Housing Needs Assessment 2025-2029](#), pg18.

⁴Odessa MacLeish-White and Mallory Rappaport, "The State of Vacant Properties in Rural Georgia", Community Progress, November 2023. <https://communityprogress.org/publications/vacant-properties-rural-georgia/>

- Procure and hold land for communities for future environmental conservation and reclamation.
- Help stabilize communities after natural disasters, such as flooding.

Land banks have the ability to resolve title issues, by clearing back property taxes, water bills, mechanics liens, and other encumbrances, so the property can be sold to individuals, nonprofits, and communities without any outstanding claims. Well-established land banks can also assist with project management, seeking grant opportunities and providing community-guided help with blighted or abandoned properties.

Land banks also procure and hold historic structures and brownfield sites to provide communities with time to plan for redevelopment. Many can hold environmentally challenged properties without the same liability as individuals and nonprofits. This would not be necessary in Vermont, however, because the state's Brownfields Reuse and Environmental Liability Limitation Program (BRELLA) already provides limited liability protection for owners/buyers of contaminated properties (brownfields) who did not create or exacerbate the contamination. A statewide land bank could coordinate with the BRELLA program.

Land banks are not a new idea, they have been discussed many times over by local partners and at the state level in Vermont throughout the years. However, the severe housing and worker shortages, as well as abandoned homes and commercial properties across the state, signal a need for new tools to help our communities grow and thrive. A sustainably funded statewide land bank is an effective tool for this work.

Discussions with Stakeholders

Since July 2022, DHCD has engaged in over 50 conversations with stakeholders regarding land banks. These conversations revealed that Vermont possesses many of the necessary tools for redevelopment at all scales. However, these diverse tools often resemble puzzle pieces that require considerable focus and time to fit together effectively. DHCD staff found broad support for a statewide land bank from partners who are looking for an entity that can simplify the process and bring new, more robust tools for redevelopment and tackling the most challenging projects.

In addition, there is an opportunity for coalition building with stakeholders; DHCD staff have an interest in creating a statewide land bank from nonprofit and for-profit developers, historic preservation and agricultural advocates, environmentally minded groups, etc.

Existing Resources in Vermont

Vermont Housing & Conservation Board (VHCB)

<https://vhcb.org/>

VHCB has dual goals of creating affordable housing and conserving agricultural land, forest land, historic properties, and recreational lands. They make grants and loans for affordable housing acquisition, rehabilitation, and construction by nonprofit organizations.

Vermont State Housing Authority

<https://www.vsha.org/#>

The Vermont State Housing Authority is dedicated to the development and preservation of affordable housing in Vermont. They are actively involved in the acquisition, construction, and rehabilitation of multi-unit complexes and mobile home parks throughout the state of Vermont.

Vermont Land Trust

<https://vlt.org/>

The Vermont Land Trust is a statewide, member-supported, nonprofit land conservation organization established in 1977. Their mission includes land and farm conservation and helping communities with parks and community gardens.

Vermont Regional Development Corporations

<https://accd.vermont.gov/economic-development/resources/rdc>

There are twelve Regional Development Corporations (RDCs) serving every geographic region of the state. They primarily provide services to businesses. A few of them also assist with planning, community development, and recreation development. They receive administrative funding from the Vermont Department of Economic Development.⁵

Community Land Trust

<https://landtrustalliance.org/land-trusts/gaining-ground/vermont>

A Community Land Trust (CLT) is a non-profit organization whose primary mission is to provide and steward land and properties for the benefit of its low to moderate-income community members through a ground lease that ensures permanent affordability.⁶

⁵ <https://accd.vermont.gov/economic-development/resources/rdc>

⁶ https://en.wikipedia.org/wiki/Community_land_trust#:~:text=The%20Champlain%20Housing%20Trust%2C%20currently,2%2C000%20units%20of%20affordable%20housing.

Home Ownership Centers

<http://www.vthomeownership.org/>

The NeighborWorks Alliance of Vermont is made up of five local Homeownership Centers offering full affordable housing services. NeighborWorks offers funding and statewide programs through these nonprofits.⁷ The Vermont Department of Housing and Community Development also provides administrative support. The services provided by the Homeownership Centers include credit and finance trainings, home repair loans and grants, and home rehab services.

Vermont Builders & Remodelers Association (VBRA)

<https://www.homebuildersvt.com/>

The mission of the VBRA is to promote, enhance, and maintain a positive business and economic environment conducive to the construction of new housing, the renovation of existing housing, and commercial development. The Association is committed to providing for the housing needs of all Vermonters and to creating competitive advantages for its members.

Community Investment Board

<https://accd.vermont.gov/community-development/designation-programs/downtown-development-board>

The Community Investment Board (formerly the Downtown Development Board) administers the state designation programs that target training and technical assistance, grants, tax credits, and permit relief. These programs empower state and local leaders to plan for and build vibrant, inclusive communities. The members of the Board represent a variety of state agencies, organizations, and communities.

Best Practices & Resources from Out of State

The State of Maine: Redevelopment Land Bank Authority

<https://maineredevelopment.org/>

In 2023, Maine passed legislation enabling the creation of a statewide land bank. An Executive Director was hired in the Spring of 2024, and the land bank is set to launch in Fall 2024. As of this writing, they are putting their operational systems in place and will begin hiring staff shortly. They are also meeting with local and regional governments to assess what needs there are and how a land bank can help.

The first planned project is the redevelopment of a vacant and abandoned mill. The Maine legislature was focused on affordable housing when the bill was passed, but a

⁷ <http://www.vthomeownership.org/>

commercial redevelopment would be a “faster win,” and property taxes are simpler to untangle with one large property over multiple single-family homes.

Housing Division staff continue to meet with the Executive Director monthly to discuss ideas, lessons learned, progress, and lend support to each other.

The State of Michigan: State Land Bank Authority

<https://www.michigan.gov/leo/bureaus-agencies/landbank>

In 2003, Michigan passed the [Land Bank Fast Track Act](#) (Public Act 258), which increased the range of powers for land banks, including creating a state-level land bank. One facet of the legislation stipulated that Michigan land banks must be created by intergovernmental collaboration between a county and the state land bank. There are 51 county land banks (out of 83 counties) plus the City of Detroit. Some county land banks are more active than others.

The State Land Bank Authority can act as a developer and provide technical assistance and project management for local governments and nonprofits upon request. They can also execute partner-driven development when there is limited staff capacity.

Cuyahoga County, Ohio: Cuyahoga County Land Bank

<https://cuyahogalandbank.org/>

Cuyahoga County is home to the City of Cleveland and 1.2 million residents. The Cuyahoga County Land Bank, also known as the Cuyahoga County Land Reutilization Corporation, was established in 2009 in response to the housing bubble's impact on Cleveland and Cuyahoga County.

Since that time, it has evolved to become a proactive development partner and provides funding and technical assistance to local governments, nonprofits, and owner-occupant home buyers looking to bring unproductive properties back to productive use. It also assists with applications for “Phase 1” and “Phase 2” environmental reviews, when needed, and provides some limited funding for the work and technical assistance with remediation plans. Environmental reviews are often required for federally funded projects and can take up to a year to complete and cost tens of thousands of dollars. There is also the additional risk of being unsure of what will be found and subsequent remediation costs.

DHCD met with Gus Frangos, founder and former President of the Cuyahoga County Land Bank, who provided sample legislations, walked through various processes/procedures, and answered the groups’ questions. For more info:

<https://cuyahogalandbank.org/about/>

Athens County, Ohio: Athens County Land Bank

<https://www.athenscountylandbankproperties.com/>

What the Athens County land bank does in rural, southern Ohio:

- Works with villages and townships to identify their most problematic properties and help achieve the desired outcome for the property. Land banks can assist with moving tax foreclosures forward to acquire properties and can demolish when needed, hold for a community doing land assembly, and rehab if it's possible.
- Helps farmers acquire abandoned farmland adjacent to their properties.

Treasury and Tax Considerations

Vermont State Treasurer

DHCD staff spoke with Gavin Boyles, Deputy Treasurer, and Ashlynn Doyon, Director of Policies, about potential implications, and opportunities a statewide land bank could have from the Treasurer's perspective.

Land banks could have the to power to issue bonds to raise funds for development projects. Vermont has several entities that currently have this power including:

- **Vermont Bond Bank**- Finances infrastructure for municipalities, school districts, and other public institutions.
- **Vermont Economic Development Authority**- Assists manufacturers with bonds to carry lower interest rate loans for capital improvements.
- **Vermont Housing Financing Agency**- Finances single family and multi-family loan programs with lower interest rates.

The Treasury Department would want to do a deeper dive into possible duplication of efforts for a statewide land bank to also issue bonds.

They would also want to look at potential positive economic outcome, e.g. job growth, net migration, and concrete grand list comparisons if/once a land bank is in place.

Vermont Department of Taxes

DHCD staff spoke with Abby Shepard, Executive Policy Advisor, and Will Baker, Legal Director, from the Department of Taxes. This discussion primarily focused on the delinquent property tax sale process and the timeframe for the “redemption period”.

The Tax Sales Process:

Title 32 (<https://legislature.vermont.gov/statutes/title/32>) outlines the procedures for property tax sales. If these procedures are not followed as prescribed the title cannot be transferred after a sale. Here are a few of the procedures that were highlighted:

- There’s no minimum sales amount; it’s at the discretion of the municipality.
- There also is discretion about how much back taxes need to exist before a property is put up for tax sale, creating equity questions about the process.
- Professional appraisals are not completed to establish a market value.
- Property owners are paid funds from the sale that exceed the delinquent taxes.
- There are very specific notifications required for the sale.

The Redemption Period:

Currently, Vermont law provides owners who lose real property to a tax sale a year to pay the back taxes and redeem their property. In addition, buyers can earn 12% interest during that year, and there are buyers who bid just for that interest, not really wanting the property.

Barriers for Redevelopment of vacant/abandoned properties:

Several of the current procedures can create significant barriers for redevelopment of abandoned properties sold at tax sale including the yearlong redemption period and inconsistencies between municipal processes i.e., how much back taxes need to be owed before a property is subject to a tax sale and how pricing is established. Most vacant and abandoned properties are already risky for developer because they are in deteriorated condition. The additional risks created by the “unknowns” of the tax sale process can make projects untenable.

Recent Efforts to Update the Process:

Tax Department staff discussed recent efforts by Vermont Legal Aid to update the tax sales process including increasing the redemption period to 3 years, use an interest rate

indexed to inflation and set a dollar amount at the tax sale. The stated goal for these recommendations was to make it harder to remove occupants from their homes for just a few thousand dollars. DHCD agrees that every effort should be made to keep Vermonters in their homes. It is likely that a discussion will need to take place between DHCD, Vermont Legal Aid and the Vermont League of Cities and Towns to craft legislation that updates the tax sale process in a way that better protects homeowners and renters and makes it simpler to redevelop vacant and abandoned properties.

Evaluating the Need for a Land Bank

Background

DHCD staff met with the following stakeholders to discuss challenges and barriers for redevelopment and how a land bank could assist with moving projects forward:

- Chip Sawyer, Director of Planning & Development, City of St. Albans, VT
- Cooper Babbit, Operations Director, Chamber & Economic Development of the Rutland Region
- David Snedeker, Northern Vermont Development Association
- Gus Seelig, Executive Director, Vermont Housing & Conservation Board
- Lyle Jepson, Executive Director, Chamber & Economic Development of the Rutland Region
- Michael Monte, Executive Director, Champlain Housing Trust
- Patrick Shattuck, Executive Director, RuralEdge
- Zak Hale, Partner and CEO, Hale Resources
- Erika Hoffman-Kiess, Executive Director Green Mountain Economic Development Corporation (GMEDC)

Challenges & Barriers Putting Property Back into Productive Use

Conversations with stakeholders identified the following barriers to redeveloping properties and getting them back into productive use:

- Purchasing a property can be a “choice limiting action,” making a project ineligible for Department of Housing and Urban Development (HUD) funding.

“A choice limiting action is any activity that a grantee undertakes, including committing or expending HUD or non-HUD funds, that reduces or eliminates a grantee’s opportunity to choose project alternatives that would avoid or minimize environmental impacts or enhance the quality of the human environment. Examples of Choice Limiting Actions

include acquisition, leasing, rehabilitation, demolition, new construction, and ground disturbance work...^{8}*

- Non-profit, for-profit developers and local governments often don't have the resources to buy and hold properties while they are getting financing in order.
- Sellers can be impatient, making a project more expensive or even unrealistic.
- Vacant and abandoned properties often have delinquent taxes and/or "cloudy titles", which can make them expensive and difficult to acquire.
- The one-year redemption period makes the project scope of work and costs unpredictable. Most abandoned properties are in deteriorated condition and can get significantly worse over a course of a year. And, making repairs to a property that you do not own outright is incredibly risky.
- Many small towns and villages do not have the staff capacity to help move housing and economic development projects forward.

How Land Banks Address Existing Barriers

Having a statewide land bank acquire property for redevelopment projects help could solve several barriers:

- A developer can apply for HUD funding with a purchase option on a land bank property without triggering a "choice limiting action".
- A land bank could step in and acquire properties when sellers are impatient, or a developer is putting financing together.
- Having a land bank purchase and hold property for redevelopment would allow non-profits and developers to better use their staff and resources and potentially reduce financial risks and exposure.
- A land bank can "cure" delinquent taxes and liens and clean up cloudy titles.
- A land bank is a tool for the most challenging redevelopments.

⁸ HUD Community Project Funding: Environmental Guidance and Scenarios, November 2022. <https://www.hud.gov/sites/dfiles/CPD/documents/CPF-Environmental-Review-Guidance.pdf>

*HUD's goal for choice limiting actions is to prevent activities that could harm the environment or limit the options for alternatives. However, this provision can make it almost impossible to stack federal funds with private lenders who require land control for their funding. <https://www.hud.gov/sites/dfiles/CPD/documents/CPF-Environmental-Review-Guidance.pdf>

Projects That Could Have Benefited from a Land Bank

The examples below are developments that either did not happen or took much longer or were more expensive than anticipated because developers did not have a tool like a statewide land bank.

The Autumn Inn Redevelopment, Hale Resources

The proposed project would have renovated the 32-room motel and constructed new units to create 40 permanently affordable rental units.

- 10 units set aside for Shelter Plus Care Vouchers.
- 20 units set aside for Project Based Housing Vouchers.
- 10 units set aside for tenants with Housing Choice Vouchers who were at risk of losing their vouchers.

The seller would not tie up the property with an option agreement, a requirement to avoid a choice-limiting action. Zak Hale had site visits scheduled with the Vermont Housing & Conservation Board and the Vermont Housing Financing Agency to put together a financing package when the seller signed a contract with a cash-backed investor to purchase the property. The investor was hoping to cash in on the momentum that Hale Resources was making on the project and offered to sell the property to them for a higher price than they paid for it. The additional time and cost made the project unfeasible, and Zak Hale could not move forward with the redevelopment.

A land bank could have stepped in, gained site control, and offered Hale Resources an option agreement. Per Zak Hale, “If it had not been tied up for those 30 days while this other “buyer” had it under contract, perhaps there could have been a project. There were a lot of people behind it...”.

Sacred Heart Redevelopment, RuralEdge

The Sacred Heart site includes 8.5 acres in downtown Newport, VT, served by both municipal water and sewer. Despite its potential for redevelopment, it sat on the market for 15 years due to multiple issues, including environmental contamination of soils, limited property access and extensive asbestos in its three buildings. After four years of site control and expenditures of nearly \$1.5 million to cover brownfield and predevelopment expenses, RuralEdge will take title to the property on October 17th. Construction will begin the next week on 26 new Low Income Housing Tax Credits (LIHTC) units in the former convent, part of the 40-unit scattered site Newport Crossing development.

In addition, 24 new condominiums (12 of which will have shared equity restricted), now fully funded with support from both the Missing Middle program and VHCB, are expected to begin construction about six months later. In addition, the site has the potential for up to 120 additional residential units, bringing the buildout potential of the site to 170 new units.

The Yellow Barn Project, Hardwick VT, Northern VT Development Association

The “Yellow Barn Project” is a joint infrastructure project between the Town of Hardwick and local and regional partners to renovate the historic 4,500 square foot barn at the west entrance of Hardwick and to build an adjacent 23,000 square foot structure that is being utilized as an agricultural business accelerator. The Hardwick Yellow Barn project is expected to strengthen Vermont’s farm-and food-based economy by allowing businesses to grow and expand, develop new products, and connect to external markets. The ribbon-cutting celebration took place on September 27, 2024.

The project was complex, starting with an environmental assessment and brownfield remediation in 2020. It took years to put together the financing and logistics for the project, and construction finally began in 2023. Funding sources included the U.S. Economic Development Administration, the Northern Border Regional Commission, the Vermont Agency of Commerce & Community Development, the Vermont Economic Development Authority, and the Community Recovery and Revitalization Program.

David Snedeker, Executive Director, NVDA, observed that a statewide land bank could have helped expedite the project by holding the property to resolve choice-limiting actions and simplify the financing.

The Lynda Lee Building, Rutland VT

The Lynda Lee Building is a dress factory that has been vacant since 1987. The building is in very deteriorated condition - there have been at least 2 fires, several overdose deaths, and has been used as a teenage hang out and a homeless camp. The ground floor is currently boarded up. Additionally, there are back taxes and liens on the property and court intervention is needed to move any redevelopment or demolition efforts forward. The current owner and the City of Rutland have a long, complicated relationship. As of January 2024, the City of Rutland was looking into purchasing it for demolition.

If a statewide land bank existed (with the powers that most land banks have), it could work with the City and the Court to potentially act as a receiver for the property to hold it while environmental testing and remediation takes place and redevelopment plans, and funding is put together. Currently, without the aid of a Land Bank this project is stuck in limbo.

How Land Banks Can Help with Natural Disasters

The 2023 and 2024 flooding events highlighted how problematic solely relying on the Federal Emergency Management Agency (FEMA) can be. For flood victims looking for a buyout of a damaged property in a location prone to flooding, the FEMA application process can take a year or more for approval. Additionally, the FEMA requirement that a property approved for a buyout can never be redeveloped poses a significant financial challenge for many communities.

A statewide land bank, with proper funding, could help alleviate this conundrum by purchasing damaged properties at risk of flooding without the stipulation that development could never occur. A land bank could also assist smaller communities with site assessments and long-term planning to ensure future developments are built in a way that minimizes the potential impact of natural disasters.

Potential Funding Models

- In Ohio, land banks are funded by collecting late fees/fines on delinquent property taxes. Communities retain the original property taxes owed when collected.
- Maine created a “Maine Redevelopment Land Bank Authority Fee” which is funded by a \$3 per ton fee for the disposal of construction and demolition debris at state, county, and municipal landfills. In Vermont, these are typically referred to as “tipping fees.”
- The Michigan State Land Bank Authority has two funding sources:
 - A small transfer tax for real estate transactions.
 - If the land bank sells a property to a non-exempt buyer, 50% of taxes go to the land bank for 5 years.
- In 2015, the Macon-Bibb County, GA, Urban Development Authority agreed to approve a \$14 Million “Blight Bond” to augment the work of the Land Bank Authority.⁹

⁹ <https://shelterforce.org/2018/11/13/how-to-fund-land-banks/>

A Phased-In Approach

We recommend that legal powers and activities be phased-in as land bank staff gain more experience and as more funding is available. Suggestions for this phased process are outlined below.

Initial Phase:

- Develop policies and procedures for acquiring and disposing of real property.
- Meet with cities and towns, regional planning commissions, nonprofit and for-profit developers to assess community needs and projects that they could assist within the short, medium, and long terms.
- Create partnerships and agreements with local stakeholders, as needed.
- Develop a 5-year strategic plan.
- Acquire properties for developer partners to enable them to put together financing and predevelopment work.

Second Phase:

- Work with communities to break ground on short-term projects and plan for medium-term projects.
- Assist communities with curing code enforcement deficiencies and flood buy outs.

Third Phase:

- Act as a catalyst and provide project management for redevelopment projects, especially in towns and villages with limited staff capacity.
- Become a coordinating entity for funding, including applying for state and federal funds.

Additional Considerations

1. **The powers listed below are common for robust land banks and should be granted to a statewide land bank for it to be nimble and meet the growing needs of communities throughout Vermont.** Coordination could be conducted directly with cities and towns, regional planning commissions, counties, and other relevant entities, as needed on a case-by-case basis. These coordination efforts would include:

- Developing real property in partnership or joint venture.
- Curing delinquent taxes and liens.

- Creating legal agreements with other governmental bodies, nonprofits, and for-profit entities.
- Procuring insurance.
- Developing master plans, redevelopment plans, and market studies.
- Contracting with third party entities.
- Charging fees for services.
- Leasing (as lessor or lessee) real property.
- Assisting communities with curing code enforcement deficiencies. This is for cases where communities without sufficient staffing or expertise request assistance with a nuisance property.

2. **The State of Vermont would not necessarily need to provide a statewide land bank with the power to limit environmental liability, a power provided to most robust land banks nationwide.** The Brownfields Reuse and Environmental Liability Limitation Program (BRELLA) provides limitation of environmental liability and access to financial assistance to persons or entities who intend to purchase a brownfield property, as well as persons who already own a brownfield property, provided that they did not cause or contribute to the contamination. A statewide land bank could access this protection through the BRELLA program.
3. **Eminent Domain is not a power often provided to land banks and could be legally problematic.** Land banks are generally not granted with the power of eminent domain. There are questions about the legality of a quasi-governmental body acquiring property through eminent domain. In addition, in Vermont, eminent domain is almost exclusively restricted to infrastructure, utilities and public use projects such as parks or hospitals. (12 V.S.A. § 1040)

Creating & Organizing a Land Bank

Establishing Goals for a Statewide Land Bank

The basic goals of most land banks are as follows:

1. Eliminate the harms caused by vacant, abandoned, and tax-delinquent properties.
2. Eliminate the barriers to returning the properties to productive use.
3. Convey properties to new owners for productive use.
4. Hold properties for future use.¹⁰

The State of Vermont can establish more tailored goals or criteria for goals, and there ideally should be flexibility to allow staff at a land bank to tweak them as they learn more about the communities they will serve. Criteria for establishing goals can be geographically based (targets areas), needs based (income or conditions), growth based (opportunities), community based (what communities say they need) and quality of life based (recreational, public infrastructure, etc.).

The culture of Vermont is more community-centric, and it is recommended that the goals and strategies developed for a statewide land bank be informed by local voices. The graphics below are meant to generate ideas and ways to think about goals and strategies for a land bank.

GOAL	STRATEGY
Eliminate blight	Demolitions, rehabilitation
Maximize short term revenue	Sale to highest bidder
Maximize long term revenue	Convey for sustainable development
Affordable housing/commercial?	Convey at lowest price
Finance Land Bank operations	Maximum inventory and maximum discretion
Neighborhood stabilization	Demolition, rehabilitation, side lot transfers

Balancing Competing Public Policies	
1. Properties that present significant harms and threats.	2. Properties that can be easily secured and protected.
3. Properties in otherwise stable neighborhoods.	4. Properties in transitional neighborhoods.
5. Properties for which there is current demand.	6. Properties for which there is no current demand.
7. Properties for which there is a range of potential uses.	8. Properties for which there is little or no new use.

¹⁰ Frank S. Alexander, Land Banks and Land Banking, (2nd Edition), (Center for Community Progress, 2015), pgs. 68-70

Developing the Legal Structure

The legal authority to acquire, manage, and dispose of property is essential for land bank operations. However, modern land banks are granted a host of other powers including:

- Developing real property in partnership or joint venture.
- Extinguishing delinquent taxes and liens.
- Creating legal agreements with other governmental bodies, nonprofits, and for-profit entities.
- Procuring insurance.
- Developing master plans, redevelopment plans, and market studies.
- Contracting with third party entities.
- Charging fees for services.
- Leasing (as lessor or lessee) real property.
- Holding property with environmental contamination with limited liability (similar to Vermont's BRELLA).
- Assisting communities with curing code enforcement deficiencies. This is for cases where communities without sufficient staffing or expertise request assistance with a nuisance property.

Additional Legal Considerations

- Create a project-based tax incentive for land bank projects. One idea is to use a program similar to TIF to relocate homes out of flood plains and restore wetlands.
- DHCD will likely need to coordinate with Vermont Legal Aid and the Vermont League of Cities & Towns to make meaningful changes to the current tax sales process. (<https://legislature.vermont.gov/statutes/section/32/133/05252>)
 - Decrease the right of redemption time frame for vacant and abandoned properties.
 - Potentially increase the redemption time frame for owner-occupied homes.
 - Other liens
- Explore creating real estate receivership provisions, including potential same day pass throughs of occupied properties with unmarketable titles to long-term receivers. (Judicial Dissolution 11B VSA 14.32)
- The powers of eminent domain are not recommended. There are questions about the legality of a quasi-governmental body acquiring property through eminent domain. In addition, in Vermont, eminent domain is almost exclusively

restricted to infrastructure, utilities and public use projects such as parks or hospitals (12 V.S.A. § 1040).

- Explore the potential support for a land bank have special 250 exemptions for community supported projects.

Property Acquisition

Most land banks can receive title through tax foreclosures to any kind of property, whether vacant or improved, residential or commercial.

A land bank should be able to acquire other publicly owned properties from local governments, whether acquired years earlier as a result of foreclosure proceedings or properties that have become surplus. All of the second and third-generation comprehensive land bank statutes expressly provide broad authority for discretionary transfers from the participating local governments to the land banks.¹¹

Defining Vacant & Abandoned Property

The enabling statute needs to clearly define vacant and abandoned property for a statewide land bank to secure and either stabilize or demolish abandoned properties, as needed, as well as for property procurement. Several definitions in Vermont Statutes and Supreme Court cases are below and could be used or modified. In general, these definitions include prolonged vacancy by a legal occupant, followed by delinquent property taxes and utilities, and deteriorated or unsafe conditions.

13 V.S.A. § 3705 outlines crimes and punishments relating to the “Trespass and Malicious Injuries to Property” and defines “abandoned property” as follows:

“...real property on which there is a vacant structure that for the previous 60 days has been contiguously unoccupied by a person with a legal right to occupy it... ... properties taxes have been delinquent for six months or more or one or more utilities have been disconnected...”

32 V.S.A. § 9603 was amended by Act 181 to include the definition of “abandoned” for tax exemption purposes as follows:

¹¹ Frank S. Alexander, *Land Banks and Land Banking*, (2nd Edition), (Center for Community Progress, 2015), pages 51-53.

“Abandoned” means real estate owned by a municipality and acquired through condemnation or a tax sale, provided the real estate has substandard structural or housing conditions, including unsanitary and unsafe dwellings and deterioration sufficient to constitute a threat to human health, safety, and public welfare.

Below are two VT supreme Court has several cases which interpret the definition of “abandoned” real estate:

“A finding of abandonment depends upon the intentions of the parties and is not predicated on any single factor, but on all of the facts and circumstances concerning the owner's relationship with the subject property. . .” [Prue v. Royer, 67 A.3d 895 \(Vt. 2013\)](#).

“Abandonment must be shown by a failure to use the property and an intent to abandon. *Marksbury v. State*, 322 N.W.2d 281, 287 (Iowa 1982)”. [Town of Newfane v. Walker, 637 A.2d 1074, 1077 \(Vt. 1993\)](#).

The Pros & Cons of Acquiring Occupied Property

Most land banks do not acquire occupied properties for a variety of reasons, including liability, the cost of property management, and the optics of potentially having to evict vulnerable tenants. However, there are a few exceptions. For example, the Detroit, MI Land Bank Authority does receive occupied properties through tax foreclosures. They offer a “Buy Back” program to tenants who can provide evidence that they were a former owner, legal tenant, or proof that they were a victim of real estate fraud.¹² Properties with tenants who do not qualify for the Buy Back program are offered to non-profits to manage as affordable rentals. The Genessee County Land Bank, based in Flint, MI, also transfers occupied properties to nonprofit housing organizations for preservation as affordable housing.¹³

The real estate market dynamics in Detroit and Flint, Michigan, are drastically different than in Vermont. Even after needed repairs are made, properties can be transferred to low-income buyers for less than \$100,000. This would not be the case in Vermont,

¹² <https://buildingdetroit.org/buy-back>

¹³ <https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/housing-affordability/overview-involve-land-assembly-and-land-banks.pdf>

making owning occupied property more risky, expensive, and unlikely to be sold at a price affordable to tenants occupying them.

The Pros & Cons of Judicial Receivership

Land banks can act as judicial receivers, be a pass-through for a receiver (usually to clean a title or back taxes) or choose not to play this role. The central task of a court-appointed receiver is to step into the shoes of the owner of disputed or distressed property, to protect that property from waste or deterioration, to manage and return it to occupancy where possible, and to preserve it until the court makes a final determination as to its ultimate disposition.¹⁴ Vermont has judicial receivership for real property.¹⁵

An interesting phenomenon happening in New England is receivership for nursing homes and other live-in health care facilities. The number of nursing homes is falling faster in New England than any other region of the country, according to [a May report from the Federal Reserve Bank of Boston](#). The area has seen a net loss of more than 150 nursing facilities between 2011 and 2024.¹⁶

By utilizing a receivership, a lender or landlord can realize and preserve value with minimal disruption to patient care or the operation of the business. Receiverships can facilitate a change of ownership through a sale or new lease and provide a new owner/operator with time to obtain the necessary licenses to operate the business. In the interim, the receiver is the custodian of the business and will stabilize and possibly improve operations.¹⁷

Further legal investigation is needed to determine if it would be beneficial for Vermont to have a statewide land bank that can act as a pass through for receiverships for vacant and occupied properties, including healthcare facilities.

¹⁴ Frank S. Alexander, *Land Banks and Land Banking*, (2nd Edition), (Center for Community Progress, 2015), pg. 39.

¹⁵ 11 VT Stats § 444 (2023)

¹⁶ <https://commonwealthbeacon.org/health-care/3-long-term-care-facilities-placed-in-receivership/>

¹⁷ Nany A Peterson and Rita M. Aliss Power. *Lenders, Landlords Can Turn to Healthcare Receiverships for Troubled Facilities*, Greenberg Traurig, LLP, May 2017.

Property Disposition

The system that Genesee County Land Bank (Flint, MI) uses for evaluating disposition strategies for properties is considered a best practice:¹⁸

- Priorities for the use of property.
- Priorities as to the nature of the transferee.
- Priorities concerning neighborhood and community development.

Evaluating Proposed Disposition of Properties:

- **Priorities for the use**
 - Market rate housing in depressed areas and affordable housing in vibrant areas.
 - Project will fill in a “missing tooth.” A missing tooth is a gap in the urban fabric where a building or neighborhood should be.
 - The size, location, and nature of the property – for example, using a side yard program for small, odd residential lots.
 - Opportunities to acquire adjacent properties for a larger development.
- **Priorities for transferees**
 - Nonprofit vs. for profit.
 - Track record & quality of previous work.
 - Capacity to successfully complete the project.
 - Prohibiting tax delinquent owners from buying land bank property.
- **Priorities for neighborhood and community development**
 - Directly responds to community needs.
 - Transit oriented development.
 - Green space and recreation.
 - Conservation and reclamation.
 - Transformational projects.

Types of Disposition

- **Low Barrier:** Side yard and community garden programs. The applicants are typically homeowners or residents, and the process is simple and straightforward.

¹⁸ Frank S. Alexander, *Land Banks and Land Banking*, (2nd Edition), (Center for Community Progress, 2015), pg. 75.

- **Medium Barrier:** Scattered site single family homes – small and medium size nonprofit and for-profit developers must demonstrate a proven track record and proof of funds.
- **High Barrier:** Large scale residential and commercial development. Medium and larger scale nonprofit & for-profit developers are required to submit proposals, often through a Request for Proposal (RFP) process, with front elevations, marketing studies, community presentations and more sophisticated proof of funds.¹⁹ Some land banks require for-profit developers to partner with nonprofit organizations to ensure community input.

Pricing Policies

A land bank has maximum flexibility to meet its public goals and policies if it has the discretion to either set the selling price for the property or agree that the value of the consideration can be provided through the development commitments of the transferee.

Most often, pricing policies are tied to the goals of the disposition of a particular property. For example, if a land bank has a single-family house that can be reasonably rehabbed, it might sell it at a very low price to a developer to rehab for an owner-occupant buyer that meets certain income guidelines. Land Banks can have “enforcement commitments” with deed covenants, reversion clauses, and/or a deed in escrow. The Cuyahoga County Land Bank (Cleveland, OH) has a “Deed in Escrow” program where the release of the final transfer documents from escrow to the transferee is contingent upon the performance of the specified construction activities.²⁰

Conclusion

Conversations with stakeholders across the state revealed that Vermont possesses many of the necessary tools for redevelopment at all scales. However, these diverse tools often resemble puzzle pieces that require considerable focus and time to fit together effectively.

The Legislature is urged to consider the elements outlined above. Fully functioning land banks need a dedicated, sustainable funding source, which must be discussed amongst the Legislature in order to ensure the maximal benefits of a land bank can be realized.

Land Banks serve as a centralized resource to acquire and pool funding, which is important to aid in the redevelopment of properties that have historically been

¹⁹ Frank S. Alexander, *Land Banks and Land Banking*, (2nd Edition), (Center for Community Progress, 2015), pages 76.

²⁰ Frank S. Alexander, *Land Banks and Land Banking*, (2nd Edition), (Center for Community Progress, 2015), pages 78

challenging to work with due to their legal encumbrances, environmental contamination, or simply being too deteriorated to be desirable to a private investor.

In addition to their role in redevelopment, Land Banks help with rural communities with limited staff capacity that may not be able to take on the responsibilities and time required for these projects but would like to address the impact of vacant and blighted properties on their communities. At a time when Vermont needs as many tools as possible to address the existing housing crisis and the needs of ailing stock, creation of a Land Bank should be a tool that is created and honed.