

Acquisition Strategies and Legal Authority Information for SCP Grantees

Municipalities and land banks have certain tools available to them allowing the ability to strategically intervene and acquire vacant and abandoned properties in the public interest to combat chronic abandonment, reduce government expenses, and increase tax revenue.

There are a few options that are immediately available to Illinois municipalities that you may consider as you move forward with developing a municipal strategy to address vacant and abandoned properties. Please note that available and allowable acquisitions options under the Strong Communities Program include but are not limited to options included in this Appendix. This is not intended to be an exhaustive list, but to provide information about some of the options available to you.

First, municipalities can enter petitions for declarations of abandonment (potentially with an intergovernmental agreement to immediately transfer the properties to an intergovernmental land bank). Second, municipalities can take direct action and enact lien enforcement under [Section 11-31-1 of the Municipal Code, 65 ILCS 5/1-1 et. seq.](#) Third, municipalities can engage with the tax sale process in their respective county, particularly through analyzing and possibly purchasing tax certificates and/or tax deeds from the county trustee. Fourth, note that land banks also have the ability to intervene to remove tax liens on properties, which can be used to “unlock” properties that otherwise would likely not be able to find a buyer on the private market and would otherwise remain abandoned. Working with a land bank can be a powerful and effective relationship to assist with addressing vacant and abandoned property.

These strategies can assist the municipality to be able to intervene before it incurs significant costs (e.g., cutting grass) and surrounding property values deteriorate. To bring a property back into productive use, a number of these strategies may need to be employed.

Abandonment

For problem properties, municipalities can work to obtain title via a declaration of abandonment. See [65 ILCS 5/11-31-1\(d\)](#). To qualify, properties must meet the following conditions:

- 1.) tax delinquent for 2 or more years or have water service bills that are 2 or more years overdue;
- 2.) vacant (i.e. not occupied by persons legally in possession); and
- 3.) has a structure that is in a dangerous and unsafe condition.

Municipalities can use public records to identify properties that meet these criteria. Once identified, municipal staff can work with local counsel and or a regional land bank to begin taking direct action. Typically, the cost of seeking title via abandonment will be less than the cost of continuously mowing grass for the absentee owner. With title, the municipality can control the future use of the property and take actions to clear structures and resell the lot to a responsible owner. Municipalities can also work with an intergovernmental land bank to maintain and market these properties, alleviating many of the concerns that municipalities have about entering the real estate market.

Strategic Demolition Petitions

If a property is not eligible for abandonment, a municipality can seek authority from the court to complete basic rehabilitation work. This could include board-up, repairs or other work to minimize the hazard posed by the structure, up to demolition. For residential and commercial buildings under three stories, the municipality can seek fast-track authority to board up or repair the structure pursuant to the

authority outlined in [65 ILCS 5/11-31-1\(e\)](#). Otherwise, a petition can be filed to pursue court-approved authority to enter the property and make necessary repairs or, if necessary, demolish the structure. The costs incurred to perform the board-up and maintenance work pursuant to authority in [Section 11-31-1\(a\)](#), including legal costs to bring the petition, can be secured with a high-priority lien against the property. Municipalities can foreclose on the lien as part of a municipality's on-going demolition petition under [65 ILCS 5/11-31-1\(a\)](#). At any time, the owner can pay the costs incurred by the municipality and release the lien. For properties with absentee owners/lienholders, however, the foreclosure will likely be uncontested and lead to a foreclosure judgment.

With a judgment of foreclosure, the municipality can take the necessary steps to set up the property for a judicial sale, at which the municipality is credited with the amount of the lien. Given back taxes and other encumbrances, the property will not likely receive other interested bidders. If the municipality wins the bid, it can bring the Certificate of Sale back to court to get a judicial deed free and clear of all encumbrances and taxes.

Tax Sale Process and County Trustee Sales

Each county administers an Annual Tax Certificate Sale ("Tax Sale") of all unpaid property taxes following Illinois State Statute ([35 ILCS 200](#)). At the sale, a property tax buyer may pay the property tax balance on behalf of the property owner. The county distributes the money from the sale to each of the taxing bodies to make them whole. The property owner then owes the taxes, plus interest, to the tax buyer during the redemption period. If the tax debt for residential properties is not redeemed in 2.5 years, or in 6 months for vacant or commercial properties, the owner could lose the property to the tax buyer. The Tax Sale is generally an effective means of collecting taxes and ensures that the vast majority of property owners pay their taxes on time.

In some cases, however, properties cycle through the system multiple times and tend to deteriorate; or taxes are not purchased, and the tax lien is foreclosed by the County Trustee agent. These properties are likely to become deteriorated and, in some cases, abandoned, leading to further deterioration that can affect neighboring properties. In both circumstances, local governments (e.g. county, municipality) are likely the last option for revitalizing the property.

The redemption period for tax certificate is three years, during which time the ideal circumstance is for property owners to pay the lien in full to the tax buyer (third party of County Trustee), redeeming the property and maintaining ownership. However, after two years (for residential properties, 6 months for commercial, the tax buyer (or County Trustee) can foreclose the tax certificate and take title to the property. This case is particularly burdensome for the County. Once the Trustee owns a property, it can sell the deed (i.e. full ownership) to a new property owner. This is typically done in a Tax Deed Auction each summer.

Acquisition options for municipalities through the tax sale process could include utilizing the following in cases where properties are not redeemed:

- 1.) Reviewing those properties that the County Trustee owns, both improved properties with structures, and unimproved vacant land, to see if there is a reuse option.
- 2.) Review the lists of properties on the tax lien list, sales in error, cancelled and surrendered and tax lien expired to determine if they are vacant and abandoned properties. If they have been vacant

and abandoned and have either not paid their taxes or water bill for the past two years, the municipality (or a land bank) can go to court to acquire the properties.

- 3.) Consider bidding on properties at the Tax Sale Auction to purchase vacant, abandoned or distressed properties that have been identified, possible through partnership with a land bank. In these cases, the bidder would need to hold the properties during the Redemption period while it simultaneously pursues a disposition strategy if the property owner does not redeem the property.

If enough properties are falling into these categories, a land bank can help the local governments intervene in a strategic and cost-effective manner.

Land Banks

Land banks are effective tools in the elimination of blight and promotion of community revitalization. By acquiring, managing and repurposing vacant and abandoned properties, land banks can help promote environmental improvements, housing redevelopment, economic investment and reduce criminal activity. While research has shown that vacant and abandoned properties depress the values of neighboring properties, the removal or repurposing of these properties can foster many community benefits, such as increased tax base and improved quality of life for residents. Land banks help local governments to acquire, develop, maintain, dispose of and otherwise repurpose vacant and abandoned properties. These activities allow communities to return properties to productive use.

Land banks are a mechanism to strategically acquire properties, return them to productive use, reduce blight, increase property values and support community goals. They grew out of the need to address the growing inventory of vacant and abandoned properties, especially in cities across the U.S. The first land banks were organized in St. Louis, Louisville and Atlanta. They are a relatively new tool for community development and began to address both the problems caused in the real estate market and reforms that were needed to break the cycle of decline that often results from tax sale processes. The latest generation of land banks intentionally take on the need to update public policies to redirect control of tax-foreclosed properties from investors who do not have a stake in the community. These land banks are formed by local government entities – counties and municipalities -- have the greatest stake in safe, attractive, and economically viable communities.

In Illinois, Land banks can be an effective tool for addressing vacant and abandoned properties and returning them to productive use. Land banks can utilize, in conjunction with municipal members, all the tools outlined above. In Illinois, land banks are created through Intergovernmental Agreement between interested parties allowing for membership of counties and municipalities. Since some of the powers of a land bank are based on home rule abilities, at least one member must be a home rule community.

We hope these details provide some options to you to strategically address problem properties in your jurisdiction and break the cycle of vacancy and abandonment.

Note: information and descriptions derived from documents created by IHDA's Land Bank Technical Assistance Network Partners Denzin Soltanzadeh, LLC and Teska Associates, Inc.