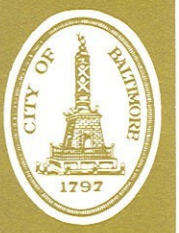


TJS

FROM	NAME & TITLE	THOMAS J. STOSUR, DIRECTOR
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 417 E. FAYETTE STREET, 8 th FLOOR
	SUBJECT	CITY COUNCIL BILL #09-0261/LAND BANK AUTHORITY

CITY of
BALTIMORE
MEMO



TO

DATE:
March 12, 2009

The Honorable President and
Members of the City Council
City Hall, Room 400
100 N. Holliday Street

At its regular meeting of March 5, 2009 the Planning Commission considered City Council Bill #09-0261, which is for the purpose of establishing the Land Bank Authority of Baltimore City; providing for the Authority's powers, duties, and limitations; providing for a Board of Directors, for the selection and terms of the Board's members, and for the powers and duties of the Board; providing certain immunities; providing certain tax exemptions; and generally relating to the establishment and operation of a Land Bank Authority, as authorized by State law.

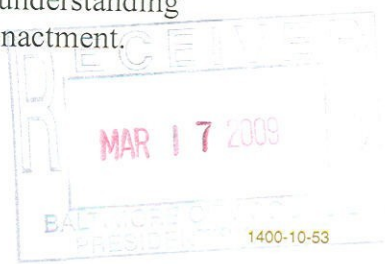
In its consideration of this Bill, the Planning Commission reviewed the attached staff report which recommended amendments to and approval of City Council Bill #09-0261. Additionally, the Commission put forth its own amendment which includes the following: "The land bank shall maintain all of its properties in a safe and clean manner, free of high grass, weeds, trash and debris." Thus, the Commission adopted the following resolution, nine members being present (nine in favor).

RESOLVED, That the Planning Commission concurs with the recommendation of its departmental staff and the above aforementioned amendment and recommends that City Council Bill #09-0261 be amended and passed by the City Council.

In addition, The Planning Commission respectfully requests that further deliberations on this legislation among Baltimore Housing, the Mayor's Office and City Council address the following concerns:

1. Should the Land Bank Authority ever cease to exist, its net assets should revert back to the City of Baltimore, per the terms of the State enabling legislation.
2. The Planning Commission suggests further assessment of the provision granting the Land Bank Authority the right to participate in non-profit real estate deals or partnerships. The Commission believes a better understanding of the implications of this clause should be obtained prior to its enactment.

F/A



3. The Commission encourages Baltimore Housing and the Mayor and City Council to actively pursue Tax Sale Certificate Redemption reform so that the Land Bank Authority may realize a share of the tax sale certificate fees and interest as a revenue source.

If you have any questions, please contact Ms. Seema Iyer, Division Chief for Research and Strategic Planning at 410-396-7272.

GWC/ttl

cc:

Mr. Andy Frank, Deputy Mayor
Mr. Demuane Millard, Chief of Staff
Ms. Angela Gibson, Mayor's Office
The Honorable "Rikki" Spector, City Council Commission Representative
Ms. Nikol Nabors-Jackson, DHCD
Ms. Deepa Bhattacharyya, Law Department
Mr. Larry Greene, Councilmanic Services
Ms. Kathleen Kotarba, Div. Chief for HAP
Mr. David Tanner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Mr. Paul Graziano, Commissioner DHCD
Ms. Julia Day, DHCD

PLANNING COMMISSION

STAFF REPORT

March 5, 2009

REQUEST: City Council Bill #09-261/Land Bank Authority

For the purpose of establishing the Land Bank Authority of Baltimore City; providing for the Authority's powers, duties and limitations' providing for a Board of Directors, for the selection and terms of the Board's members, and for the powers and duties of the Board; providing certain immunities; providing certain tax exemptions; and generally relating to the establishment and operation of a Land Bank Authority, as authorized by State law.

RECOMMENDATION: Approval with Amendments. The amendments are listed below in the "Proposed Amendment" section of the report.

STAFF: Seema Iyer

PETITIONER: Administration – Baltimore Housing

OWNERS: Citywide

BACKGROUND

Laws and regulations governing the removal of vacant or abandoned property from private ownership (e.g. code enforcement, tax foreclosure, nuisance abatement or slumlord prosecutions) are disproportionately designed to be accommodating to the owner by ensuring proper due process and adequate time for notifications. Such laws were based on the assumption that vacancy or abandonment would be rare occurrences and be a minor component of existing government systems. However, given the rapid population loss over the last 40 years in Baltimore City and other Northeast/Midwest cities, the staggering levels of abandonment have become an issue of crisis management or crisis prevention. There are direct and indirect costs associated with this level of abandonment:

- Fiscal Costs: Loss of Tax Base
- Economic Costs: Loss of Property Values, Loss of Jobs
- Social & Psychological Costs: Impacts on Public Safety and Health

As the earliest foreclosures and abandonments of real estate became prevalent and frequent in an area, good and valuable real estate also suffered a loss of value, spreading the "depressed" area into previously stable and valuable areas. In some cities and urban areas of the United States, one response has been creation of "land banks". A Land Bank Authority is a non-profit quasi-governmental entity with the primary responsibility and authority for acquiring, maintaining, and selling abandoned property in order to solve the challenges created by these blighting properties.

In Baltimore City, there are nearly 30,000 abandoned properties (structures and lots), which comprise nearly 13% of the total property in the City. The City currently owns over 9,000 of these properties. Approximately 4,000 City-owned vacant properties are vacant structures. In other words, the City owns nearly twenty five percent (25%) of all vacant residential buildings in Baltimore. These buildings are uninhabitable and many are either beyond repair or are too costly to repair.

Abandoned properties drain money from nearby innocent homeowners, reduce tax revenue, and reduce the quality of life in affected neighborhoods. According to a study by Temple University of vacant properties in Philadelphia, a single abandoned house on a block can reduce the value of all other properties by an average of \$6,720. Among other things, the reduced value prevents other homeowners from building wealth. More directly, abandoned property severely restricts local government's ability to collect delinquent property taxes, resulting in tens of millions of dollars in lost revenues.

CONFORMITY TO PLANS

Creation of a Baltimore City Land Bank is one of the specific strategies in Baltimore's newly-adopted Sustainability Plan (**CleanG3SD: Return abandoned properties to productive use**). In addition, the Land Bank should help implement or support many strategies of the City's Comprehensive Master Plan: LIVE EARN PLAY LEARN.

IMPLEMENTS:

- LiveG1O2: Strategically Redevelop Vacant Properties Throughout the City of Baltimore
- LiveG1O3: Maintain and Create Safe, Clean & Healthy Neighborhoods
- LiveG2O2: Streamline and Strengthen the Development Process
- LiveG1O1S6: Create & preserve mixed-income neighborhoods with targeted disposition of City properties;
- LiveG1O2S2: Implement vacant housing reclamation strategy for Transitional & Distressed neighborhoods.

SUPPORTS:

- LiveG1O1S1: Develop & implement inclusionary housing plan;
- LiveG1O1S2: Create 300 units / yr. affordable housing for seniors, people with disabilities, homeless, low-income households;

CAN SUPPORT:

- PlayG3O1: Maintain a Well-managed System of Parks & Open Space
- PlayG3O2: Protect and Enhance Baltimore's Natural Habitat and Environmental Resources
- LiveG1O2S3: Support creation of Community Garden Land Trust(s).
- LiveG1O3S1: Implement TOD strategy to foster stronger neighborhood ctrs.;
- LearnG1O2S4: Ensure re-use of surplus school facilities is timely & compatible w/ surrounding neighborhoods.

Where practical, the assets of the Land Bank should be made available to support the efforts of Tree Baltimore as well as for community gardens and urban agriculture. Land disposition agreements requiring rehab should, where feasible, require compliance with Green Building standards. Additionally, the Land Bank Authority must comply with the City's MBE/WBE policies and requirements, and the goals of Baltimore City Residents First.

ANALYSIS

City Systems

Existing City processes for tax collection and for property acquisition and disposition lack efficiency and therefore are not capable of fully and quickly addressing the magnitude of the abandonment problem. The tax sale foreclosure process is cumbersome and time consuming, taking more than 3 years to foreclose upon and dispose of a single property. The legal sale of a property involves many city agencies (Housing, Real Estate, Space Committee, Finance, Law, and the Board of Estimates) which often impede a developer from obtaining cost-effective financing. Existing policies regarding pricing and tax liens emphasizes revenue collection over neighborhood development.

The City's current means of property acquisition include donation, voluntary sale, tax sale foreclosure, and condemnation. Properties remain in City ownership on average for 33 months. The average annual property management budget between FY2005 and FY2009 was \$4.5M.

The City's current means of property disposition include:

- Request for Proposals: Bundled parcels and larger redevelopment sites are awarded to winning bidders who submit plans that meet the requirements of the RFP.
- SCOPE (Selling City Owned Properties Efficiently): City-owned properties are marketed by a diverse group of qualified real estate agents.
- Rolling Bid: Bi-monthly online offering of less marketable properties; bids submitted are subject to fair market value appraisal.

To hold or "bank" city-owned land within these existing systems requires:

- Intra- and inter-agency coordination: for example, property management and sales processes remain fragmented within various agencies.
- Eliminating tension between legitimate competing governmental objectives: for example, between short-term revenue collections and long-term development objectives.
- Maintaining long-term consensus among the various stakeholders for a consistent, targeted acquisition and disposition strategy.

In order to effectively return abandoned properties to productive use, the creation of a land bank should standardize and streamline the policies and procedures for acquiring, maintaining and disposing of City property.

History of Land Banks

According to the National Vacant Properties Campaign, five metropolitan areas have created land banks to focus on a significant and rapidly increasing number of abandoned tax-delinquent properties in inner cities. St. Louis, MO, Cleveland, OH, Louisville, KY, Atlanta, GA and Flint, MI each have addressed a large inventory of privately owned tax-delinquent properties, or properties acquired as a result of tax foreclosures, through a proactive mechanism to facilitate conversion of those properties from neighborhood and community liabilities to long-term assets. The main objective was not so much a desire for long-term metropolitan planning through large-scale land assembly, but simply a response to a crisis in property tax delinquency and abandonment, the same crisis that afflicts Baltimore City.

Different areas of the country have created variations of Land Banks tailored to their specific local or regional economic situations and outlooks. All are using land banks as a pro-active approach to an accumulation of abandoned real estate, often concentrated in certain sections of a city or urban county, which if left untended to run its course through normal tax-sale procedures would become a significant obstacle to revitalization of part or all of the city or county.

Creating A Land Bank Authority for Baltimore City

During the 2008 Session of the Maryland General Assembly, Mayor Dixon's Administration worked with Baltimore City's State Legislative Delegation to obtain passage of Senate Bill 911 (Chapter 468, Acts of 2008). This enabling statute, which became effective on October 1, 2008, gave the City the authority to establish by ordinance a Land Bank Authority. The enabling statute provided that a future land bank should have the responsibility and capability to efficiently acquire, manage, and sell abandoned property for productive use. It specifically prohibited the new Authority from exercising the power of eminent domain or to levy taxes.

Baltimore Land Bank Authority Task Force Recommendations, December 2008

Department of Planning staff served on the City's Land Bank Task Force along with more than twenty citizens, city and state officials. The group met with consultants from the National Vacant Property Campaign, Dan Kildee of Genesee Institute and Frank Alexander from Emory University, shared their expertise and knowledge of other land banks across the country.

The Task Force grouped its recommendations into several categories:

1. Goals of the Land Bank

One of the primary reasons for creating a Land Bank Authority is to create a process that will be better able to manage and maintain vacant properties by consolidating the inventory into a single entity, the responsibility for which is currently spread among

agencies. Success could be measured by reducing the time it takes to dispose of property due to increased efficiency and elimination of duplicate functions currently performed by several agencies throughout the City.

Since it will be incumbent on the Board of Directors to adopt policies that will clearly articulate these goals, how they will be achieved, and how success will be measured, **Planning Department staff recommends that these purposes be included in the bill.**

2. What projects does the LBA handle?

The Task Force recommended that the majority of property conveyed to the Land Bank be vacant and abandoned structures and land throughout the City and any transactions should be guided by rules and regulations set by the LBA's Board of Directors and approved by the Board of Estimates.

Since those rules and regulations are still to be developed, **Planning Department staff recommended that the overarching topics that need to be covered be added to the bill:**

- a. **the source of properties conveyed to the Authority;**
- b. **policies regarding disposition of property, which are:**
 - **consistent with the City's established plans and policies, including, and without limitation, Master Plans, Urban Renewal Plans, and Economic Development initiatives and projects;**
 - **subject to well-defined pricing policies; and**
 - **developed according to priorities or criteria for disposition;**
- c. **policies regarding property maintenance; and**
- d. **policies regarding public notification and participation.**

3. Board of Directors

The size and composition of the Board of Directors influences the functionality and practicality of convening the board. While not all members of the Task Force agreed with the composition of the board in the Bill, the bill includes a Board of Directors consisting of eleven members. The Board should include the Mayor, the City Council President, City Comptroller, the Commissioner of Housing and Community Development, the Director of Planning, and the Director of the Finance, or their designees. Importantly, it should also include five citizens approved for nomination to and confirmation by the City Council. These citizens should have appropriate experience in real estate, finance, property management, community planning and development and/or be the representative of a community-based organization.

4. Means to Assure Transparency

Currently, all transactions of land owned by MCC are reviewed by the Board of Estimates. With the establishment of and conveyance of such land to the LBA, that review will no

longer be required for every transaction. The LBA must develop procedures for assuring fairness, notice, and compliance with planning, zoning, and other applicable community reviewed land use ordinances.

One of the initial acts of the LBA will be to acquire from MCC an inventory of property. It is recommended that this be accomplished by a mass conveyance, reviewed by City agencies, and approved by the Board of Estimates. The inventory should be posted twice a year in a newspaper and be maintained in real time on the Land Bank's website.

Fiscal Impact

It is anticipated that the creation and operation of the LBA will be "budget neutral". The acquisition, asset management and disposition activity currently undertaken by the City through Baltimore Housing's Land Resources and Disposition Division is supported almost entirely by sales proceeds. Budget projections were prepared by a workgroup led by the Department of Finance with representatives from Baltimore Housing, the Department of Public Works, and the Department of Transportation. Additionally, an opportunity on the short horizon is the creation of an acquisition fund. This pool would be seeded with public money, with the assets of the LBA portfolio used as collateral, and leveraged with private and philanthropic capital. An acquisition pool could be used to support capital needs of the LBA.

Summary of Key Components of the Bill As Introduced

- Board of Directors – Establishment, Qualifications Governance, Limitations, and Corporate and Related Powers.
- Property Acquisition, Sale, Use and Improvements, and Inventory.
- Tax Liens – General Powers, Transfer in lieu of Foreclosure, and Release of Lien.
- Funds received by Authority, Financial Plan, Annual Report, and Authority as Receiver.
- Administrative Review and Judicial Review.

Proposed Amendments

The Department of Planning recommends adding a clear purpose statement for the creation of a land bank authority as well as more clarity on the types of topics the to-be-developed rules and regulations should cover.

Recommended Amendments to City Council Bill 09-261, "Land Bank Authority"

1. On p. 2, after line 28, insert a new Section 22-3 to read as follows:

"22-3. Purposes of Subtitle.

The purposes of this subtitle are:

- (1) **to provide a mechanism by which properties in the City, primarily those that are foreclosed, vacant, or abandoned, may be efficiently acquired, held, managed, redeveloped, and disposed of; and**
- (2) **to further the City's goals of, among other things:**

- a. eliminating blight;
 - b. sustaining neighborhood viability;
 - c. creating opportunities for affordable and mixed-income homeownership and rental development;
 - d. facilitating economic development; and
 - e. promoting the fiscal stability of the City, as a whole, and of its individual neighborhoods.”
2. On page 2, in line 29, strike “22-3” and substitute “22-4”.
 3. On p. 4, after Line 9, amend Subsection 22-10 to include a new qualification as follows:
(4) A person not currently employed by the Mayor and City Council, Housing Authority of Baltimore City, Baltimore City Public Schools or Baltimore Development Corporation.
 4. On p. 6, after line 24, amend Subsection 22-16 (b) to add a new qualification as follows:
(4) The Executive Director must become a Baltimore City resident and registered voter within six months after appointment by the Board.
 5. On p. 6, lines 2 and 3, amend Section 22-13(b) as follows:
 “An affirmative vote of [at least 6 members] **the majority of those present**, at least 2 of [whom] **which majority** are appointed members, is needed for any action by the Board.”
 6. On p. 7, lines 4 and 5, amend Section 22-16(c) (4) as follows:
 “[establishes the] **develops for the Board’s approval** procedures and processes needed to perform the functions of the Authority.”
 7. On p. 9, after line 33, insert a new Section 22-44(c) (2) as follows:
“(2) These rules and regulations must be comprised of at least the following topics:
 - e. **the source of properties conveyed to the Authority;**
 - f. **policies regarding disposition of property, which are:**
 - **consistent with the City’s established plans and policies, including, and without limitation, Master Plans, Urban Renewal Plans, and Economic Development initiatives and projects;**
 - **subject to well-defined pricing policies; and**
 - **developed according to priorities or criteria for disposition;**
 - g. **policies regarding property maintenance; and,**
 - h. **policies regarding public notification and participation.”**
 and re-number Sections 22-44(c) (2) and (c) (3) to be Sections 22-44(c) (3) and (c) (4) respectively.
 8. On p. 11, lines 9 and 10, amend Section 22-47(a) as follows:
 [The] **In consultation with the City**, the Authority shall maintain an inventory of all property held by it, classified according to title status, **code compliance**, and suitability for [use] **disposition**.

Explanation: **Bold face** indicates matter recommended to be added to the bill;
 [Brackets] indicate matter recommended to be deleted from the bill.

NOTIFICATION

Notice of hearing sent to Citywide Community Association Directory and Land Bank Task Force Members

Land Bank Task Force Members 2008

1. Mr. Kevin Bell, Principal, The Bell Group
2. Mr. Paul Brophy, Principal, Brophy & Reilly, LLC.
3. Ms. Kelly Cartales, Senior Vice President & Director, Baltimore & Mid Atlantic Region, Enterprise Community Partners
4. Mr. Frank Coakley, Assistant Secretary, Development & Finance, Maryland Community Development Association
5. Mr. Rob English, B.U.I.L.D.
6. The Hon. Delegate Cheryl D. Glenn, District 45, Baltimore City
7. Ms. Beth Harber, BNC/Abell Foundation
8. Mr. Dean Harrison, President & CEO, Harrison Development, LLC.
9. Mr. J. Howard Henderson, President, Greater Baltimore Urban League, Inclusionary Housing Coalition
10. Mr. Jim Kelly, Asst Professor of Law & Director, Community Development Clinic, University of Baltimore School of Law
11. Mr. Sandy Marenberg, President, Marenberg Enterprises Incorporated, Home Builder's Assn of Maryland
12. Mr. Jody Landers, Greater Baltimore Board of Realtors
13. Ms. Yvonne Lansey, President, CEO, Ideal Federal Savings Bank
14. Mr. Kelly Little, Executive Director, Druid Heights CDC
15. Mr. Mike Mitchell, Executive Director, Chesapeake Habitat for Humanity
16. Mr. Howard L. Perlow, Senior Vice President, Residential Title Company
17. Mr. Mark Pollak, Ballard, Spahr, Andrews & Ingersoll, LLP.
18. Ms. Kathy Robertson, Director, Westside Initiative, BDC
19. Mr. David Rudow, Baltimore Efficiency & Economy Foundation
20. Mr. David Sann, Director of Housing Development, St. Ambrose Housing Aid Center
21. Mr. Mark Sissman, President, Healthy Neighborhoods, Inc.

Gary W. Cole / For T.J. Stosur

Thomas J. Stosur
Director