

Land Banking as a Foreclosure Mitigation Strategy

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Moderator: *Welcome to the Federal Reserve Bank of Atlanta's Foreclosure Response podcast series. I'm Karen Leone de Nie from the Federal Reserve Bank of Atlanta, and today we're talking with Frank Alexander, professor of law at Emory Law School in Atlanta, Ga. Frank is an expert in property, real estate sales and finance, and state and local government law as well as federal housing policies. He has also written extensively on land banking in the United States.*

During the current economic and mortgage crisis, the number of foreclosures has surged, leaving neighborhoods scattered with vacant and sometimes abandoned homes. While many older industrial cities have confronted these challenges for years, formerly growing cities are now facing increasing vacancy rates. Through the Housing and Economic Recovery Act and the American Recovery and Reinvestment Act, the federal government has dedicated nearly \$6 billion toward neighborhood stabilization, including the use of a strategy called land banking. Today, we're going to talk with Frank about some of the issues and opportunities of land banking to help stabilize communities throughout the country. So thanks for joining us.



Frank Alexander: Thank you.

Moderator: *Our first question: Can you describe how the mortgage foreclosure crisis has impacted neighborhoods?*

Alexander: A mortgage foreclosure impacts neighborhoods in a number of different ways. A single foreclosure isn't necessarily harmful to a neighborhood, but foreclosures, particularly when the property becomes vacant and abandoned, begin to have dramatic impact on a neighborhood. It can impact the neighborhood property values, it can result in an increase in crime, and it can begin to unravel the very fabric of the neighborhood's culture.

Moderator: *Well, you've written about the need for policies that support land banks as a tool for stabilizing these neighborhoods. Can you try to begin by explaining what a land bank is?*

Alexander: A land bank in its simplest form is a governmental entity that specializes in the conversion of vacant and abandoned properties back into productive use. They're designed to go after the properties that are causing harm in our neighborhoods, the properties that no one else wants. The properties that, for some reason, the market is no longer taking care of. A land bank is designed to get these properties, to take control of them, to put them back into productive use as soon as possible.

Moderator: *So, based on your response, I'm wondering: Do all foreclosures result in vacancies?*

Alexander: Oh, certainly not, Karen; not all foreclosures result in vacancies. Many foreclosures will go directly into a new purchaser, and the property will be reoccupied and continue in a productive use. The major problems occur when the foreclosures result in vacancies for 90 days, 180 days, or longer. And the vacancies result in abandonment. It's that cycle, that path of foreclosure, vacancy, and abandonment that begins to have the disastrous impacts on the streets, the neighborhood, and the local government.

Moderator: *In going into more depth on this foreclosure issue, I know that land banks have been around for a long time, but how has the foreclosure crisis changed how land banks operate and how they're used?*

Alexander: Land banks have been around for about 25 to 30 years. They were created first in the primarily industrial cities, the older industrial cities, that were experiencing general economic decline. So, the economy was resulting in abandoned properties; the population would disappear, the employment base would disappear. Land banks in those cities were used in those cities were used to go after the properties that were indeed abandoned; there's no longer any demand for those properties. They were largely tax-delinquent properties. What is different is that in the past five years the mortgage foreclosure crisis has caused a different kind of surplus inventory. We've got more properties than our market can absorb right now, and land banks can now be used to step into to this inequality, or disequilibrium, between supply and demand in properties. The large volume of properties that are resulting from our foreclosures are simply dragging down our neighborhoods.

Moderator: *For our next question, can you talk a little bit about the functions of a land bank? What does a land bank actually do?*

Alexander: A land bank can do several different things. The first thing is that it can address legal barriers to the marketability of the property. I see that most commonly where there are properties that are abandoned as a result of tax foreclosures, and they're simply not marketable. Or, if the local government acquires the property, it cannot dispose of it for affordable housing. But land banks can do far more than that. They can take

control of property where the owner has given up and walked away, whether it was a former occupant in a home or a bank that seized it in a foreclosure and has decided it really doesn't want it. The land bank can become a responsible property manager. It can board it up if appropriate, demolish it if appropriate, rehab it if appropriate, and put it back into affordable housing. So, what we're looking for in land banks are parties that can take control and become responsible property owners and put it back into productive use as soon as possible.

Moderator: *Land banking is a pretty complicated process, and I'm wondering: Who are the players who actually operate the land banks, and who in the local governments are involved in the land banking process?*

Alexander: Most land banks are a part of local government; a city or a county, or a combination of a city and a county. In some jurisdictions it is really affiliated with the tax commissioner's office. I see that when the inventory is primarily tax-delinquent property. In other jurisdictions where the inventory—the surplus inventory—is foreclosed homes, then it more commonly is in a housing and neighborhood development department of a local government or is affiliated with that.

Moderator: *I'm wondering if you need to establish a land bank to do land banking.*

Alexander: No. Land banks as independent governmental entities are one way to do it. But the key concept today is land banking, which can be done through multiple different kinds of public agencies. If a jurisdiction for a variety of reasons doesn't want to create a land bank it may well have another public authority that can engage in the land banking activities. Land banking is the process of taking abandoned properties, controlling them, and then returning them to public use. A land bank is an entity that does that. But in some jurisdictions there'll be a redevelopment authority or a downtown development authority that can serve as the banking entity, and you don't need to create a new entity, just a new program for land banking.

Moderator: *Well, getting back to the land bank itself, though, can you give an example of an established land bank that has had some success?*

Alexander: The model land bank today is one that was created seven years ago in Flint, Mich., called the Genesee County Land Bank. It is the most recent land bank created in the last 30 years. It is tied very closely into the strongest land bank statute in the country, which is in Michigan. The Genesee County Land Bank takes advantage of the tax foreclosure process in Michigan. It acquires roughly 2,000 pieces of property a year, cleans those properties up, and as quickly as possible puts them back into affordable housing, mixed income housing, or economic development. Some of the properties for which there is no demand, it simply cleans and converts into park space.

Moderator: *I know we've talking about foreclosures driving an increase in land banks and land banking. Can you talk some of the more recent players or actors in this field?*

Alexander: The federal statute from last summer, the Housing and Economic Recovery Act of 2008, was the first time there was a federal reference to land banking. As a result of that federal statute and the \$4 billion it made available, some of which can be used for land banking, there's a tremendous increase in the interest across the country in land banking and in land banks. Both local governments, at the city and county level, and the state legislatures are now actively considering land banking. Several of the examples of legislative interest in land banking are occurring in the state of Illinois, in Ohio, in Pennsylvania, and in New York, all of which have a number of bills pending that will create land banks or authorize local governments to create land banks. One of the features that is unusual and very exciting about these new legislative efforts is that they are encouraging cross jurisdictional land banking activities, or regional land banking. Where a number of cities within a county, or several counties will come together and engage in land banking activities.

Moderator: *Well, that's a very interesting progression in land banks and land banking. I'm also wondering, though, as states and local governments are exploring these options are there any specific risks or opportunities that they should be considering as they move forward with these strategies?*

Alexander: Yes, there are significant risks. Any time you're doing property acquisition, you're incurring risk. The first risk is that you just don't know what you're getting, and particularly when you're dealing with vacant abandoned properties, you don't want to do it simply because you can. You need to know what it is you're acquiring. The second risk is that you don't know what you're going to do with it when you get, and so you need to have capacity to manage this property. It's been abandoned for some real clear reasons: The marketplace doesn't want it anymore. So, you've got to have the capacity to manage this asset, this property that no one else wants. And then third, you have to have a plan for what you're going to do with it when you exit, or dispose, of the property. Is this property to be used for long-term strategic plan such as a park or a public school facility? Is the property to be put back into affordable housing as quickly as possible? The failure of land banks, or land banking, to be integrated with comprehensive land use plans is a huge risk.

Moderator: *You talked about some of the risks associated with land banking, and so I'm wondering, are there other strategies that could be used in place of land banking that may be dealing with some of these vacant and abandoned properties?*

Alexander: Oh, yes. Land banking, Karen, should not be viewed as a cure, or silver bullet solution, to the problems created by the foreclosure crisis and the excess inventory. Land banking, really, is best used when the market itself cannot reabsorb the properties. Whenever the market, the private market, can reabsorb the inventory, I think it's best to let the market do that. The land bank should be used either in a very neighborhood-specific, strategic fashion, when there are a large number of properties on a given street, or in a given neighborhood that the market won't simply intervene. Then, yes, use the land bank there to start the stabilization process, to shrink the supply of excess properties: Simply by shrinking the supply you begin to facilitate the likelihood that the private market will return.

In other cases, the land bank is best used when the property is otherwise untouchable by the market. I see that most commonly in brownfield examples. And the ability of a land bank to coordinate with brownfield redevelopment authorities is an excellent opportunity for cross-subsidy of public functions in order to return the property to productive use. Again, in Flint, Mich., you have a very strong example of that. All of the land bank properties in Genesee County, Mich., are also classified as brownfields as a matter of law, which provides a number of incentives for tax-exempt financing and redevelopment and clean-up activities. As land banks look at cooperating with brownfield properties, or being involved in the redevelopment of brownfield properties, it's important to understand that brownfield properties are properties that have some degree of environmental contamination, and that's why the marketplace doesn't want them. So when a land bank can work with a brownfield authority, or redevelopment authority, it's in a position to do what the private market can't do.

Moderator: *We've been talking a lot about state and local governments and their activity in land banking. Now I'd like to turn our attention to, what is the role of the federal government in land banking?*

Alexander: That's a great question, Karen. The federal role has been, in the last 12 months, providing funds that can be used to facilitate the creation of land banks at the state and local level. I think that's the appropriate role for the federal government: simply to facilitate state and local initiatives. I think more can be done, but the critical step has been taken by the federal government, which is to provide significant capital funding that can be used to establish and operate land banks in those jurisdictions that see a need for them. Again, not all jurisdictions should have land banks, or have a need for land banks. But those that have large inventories of vacant and abandoned properties should look at land banking as a tool, and the federal government has taken the important step of providing funding that can be used if the state and local governments wish to do that.

The only other role I would advocate for the federal government is to facilitate cross-regional planning, to encourage states and localities to deal not just with the property in a given neighborhood, but to realize that foreclosures and abandonment are regional problems and not just neighborhood-specific problems. Land banking strategies ultimately become a part of land use, and land use planning needs to be regional. And to the extent that the federal government can encourage states to look at regional planning, I think that would be quite helpful.

Moderator: *Well, this has been a very interesting discussion of land banking, and I want to thank you for joining us today.*

Alexander: It's my pleasure, Karen.

Moderator: *For more information on land banking, read "Land Banking as Metropolitan Policy" by Frank Alexander on the Brookings Web site at www.brookings.edu. We've been speaking with Frank Alexander of Emory Law School. This concludes our Foreclosure Response podcast on land banking. For more information on this topic and others, visit the Foreclosure Resource Center on the Atlanta Fed's Web site at www.frbatlanta.org. Thanks for listening. If you have comments or questions, please e-mail podcast@frbatlanta.org.*