

# New York Land Bank Association

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## TESTIMONY FOR THE 2020 JOINT LEGISLATIVE HEARING ON HOUSING Submitted by the New York Land Bank Association

History has not been kind to most of New York's communities.

It's been twelve years since the 2008 Financial Crisis devastated neighborhoods across New York State and many of our communities are still reeling from the effects. Economic recovery has been incredibly unbalanced throughout the state and upstate New York's economic recovery has been among the weakest of any region in the United States. Parts of upstate have yet to recover from the recession at all<sup>1</sup>.

It's been seventy years since post-World War II suburbanization of America hollowed out upstate's urban centers creating an extraordinary imbalance in the housing supply and leaving behind entire populations that were denied the economic opportunity to participate in the new American Dream.

It's been ninety years since the Home Owners' Loan Corporation (HOLC) - a government-sponsored corporation created as part of the New Deal - published "red lining" maps that encouraged the intentional disinvestment of communities of color and certain ethnic groups creating a legacy of economic and racial segregation in cities like Albany, Buffalo, Rochester and Syracuse that still persists today.

Today, the inequality plaguing New York's communities caused by this history is staggering. The disparity between white and black homeownership rates in cities like Albany and Buffalo are among the widest in the nation<sup>2</sup> and left unaddressed the trajectory of these economic disparities and pervasive inequality will continue for generations.

Consider Arbor Hill, an economically distressed neighborhood of about 3,800 people located in the shadow of the state capitol. Arbor Hill is one of the lowest-opportunity neighborhoods in the United States for children - scoring a 1 out of 100 on the Child Opportunity Index.<sup>3</sup> In Arbor Hill single parents head 86% of families. Quality affordable housing and economic opportunity are severely lacking. Unemployment and poverty are high 97% of the children who live there are black or Hispanic. Majority of renters are rent burdened or severely rent burdened and more than 25% of the buildings in Arbor Hill are abandoned. The life expectancy of a child born in Arbor Hill is 7 years less than that of a child born in an adjacent neighborhood.

Unfortunately, there are too many neighborhoods throughout New York State like Arbor Hill struggling to recover from 100 years of disinvestment. And for every urban community in the state grappling with a tremendous number of vacant and abandoned proportions there are multiple rural communities grappling with their own affordable housing crisis.

Land banks eliminate blight and transform vacant and abandoned properties into affordable homes that serve as the foundation upon which our communities can rebuild. By working together, we can eliminate disparities and change the trajectory of even our most distressed neighborhoods.

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<sup>1</sup> *NY's Uneven Economic Recovery: A Continuing Tale of Two States*. Empire Center. October 2018  
<https://www.empirecenter.org/publications/new-york-uneven-economic-recovery/>

<sup>2</sup> McCargo, Alanna; Stochak, Sarah, "Mapping the black homeownership gap." Urban Institute.  
<https://www.urban.org/urban-wire/mapping-black-homeownership-gap>

<sup>3</sup> Child Opportunity Index 2.0, Institute for Child, Youth and Family Policy, Brandeis University  
[www.diversitydatakids.org](http://www.diversitydatakids.org)

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All New Yorkers should be concerned about the number of vacant and abandoned problem properties located within our neighborhoods, and those tasked with fostering housing and economic development throughout the state should be especially troubled. Ultimately, the overall economic health of any municipality or region is limited by its weakest neighborhood, and even the most substantial economic development investments and innovative programs can be undermined by economically distressed neighbors.

Abandoned and blighted properties prevent new home buyers and businesses from moving into and investing in older neighborhoods, depress property values, prevent existing homeowners from growing wealth through equity, limit the ability of investors to finance new businesses or improvements, and reduce property tax revenue to local governments.

Vacant and abandoned properties are costly. Tax-foreclosed properties do not generate tax revenue, and along with zombie properties, vacant and abandoned properties impose significant direct and indirect costs on local government and residents. Studies have shown that vacant and abandoned properties can cost cash-strapped local governments millions of dollars each year in direct service costs and lost tax revenue. These costs are tremendous when quantified. A 2016 study found that vacant and abandoned properties cost the City of Toledo, Ohio - which has an estimated 9,300 vacant buildings (the City of Buffalo is estimated to have over 10,000 vacant buildings) and 3,900 vacant lots, approximately \$9.2 million per year in direct service costs and lost tax revenue. The study quantified the cumulative loss in surrounding property value at more than \$98 million<sup>4</sup>.

Recent data suggests that New York State is experiencing a decline in population with most of the loss occurring outside the NYC metro region<sup>5</sup>. This development is especially concerning considering that population migration from upstate New York's urban centers during the suburbanization era (beginning in the 1950s) was one of the largest contributing factors of the large number of problem properties that many New York communities have been grappling with for decades<sup>6</sup>. Population shifts can create an imbalance in the housing supply and weaken housing markets. This imbalance has a particularly devastating effect in neighborhoods that are already burdened by an oversupply of housing, weak housing markets and high concentrations of poverty.

And while vacant and abandoned properties may be more prevalent on a per capita basis in upstate New York, every part of the state is wrestling with problem properties. Even areas with strong housing markets are not immune to the proliferation of vacant and abandoned properties and their harmful effect. In 2017 New York City – a city with one of the strongest housing markets in the United States - created a dedicated Zombie Home Unit to address problematic zombie properties. Suffolk and Nassau Counties have been reported as having among the highest number of pre-foreclosure homes in the United State last year<sup>7</sup>.

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<sup>4</sup> *A Conservative Analysis of Costs Imposed by Vacant and Blighted Properties in Toledo: Conducted at the Invitation of the Junction Neighborhood*. Center for Community Progress for the Lucas County Land Reutilization Corporation. June 2016.

[http://www.communityprogress.net/filebin/160630\\_TASP\\_LCLRC\\_Toledo\\_Cost\\_of\\_Blight\\_Study\\_Final.pdf](http://www.communityprogress.net/filebin/160630_TASP_LCLRC_Toledo_Cost_of_Blight_Study_Final.pdf)

<sup>5</sup> "Nevada and Idaho Are the Nation's Fastest-Growing States" United States Census Bureau. Dec 2018

<https://www.census.gov/newsroom/press-releases/2018/estimates-national-state.html>

<sup>6</sup> *New York State Land Banks*. New York State Land Bank Association in Partnership with the Center for Community Progress. May 2017 <http://syracuselandbank.org/wp-content/uploads/2017/05/NYLBA-publication-FINAL-05-04-2017.pdf>

<sup>7</sup> Chinese, Vera. "NY provides additional \$9 million in foreclosure help for municipalities." *Newsday*

<https://www.newsday.com/long-island/grant-funding-state-law-zombie-1.26504651>

## New York Land Bank Association

Fortunately, the infrastructure to revitalize neighborhoods and address economic disparities throughout New York State through the reclamation of vacant and abandoned properties is already in place. In July 2011 New York State passed historic legislation authorizing the creation of land banks, enabling cities and counties throughout the state to take the fight against blight into their own hands. Land banks are non-for-profit corporations equipped with the statutory power needed to reclaim vacant or abandoned properties. The first of New York's land banks was created in 2012 and today, less than seven years later, there are 25 land banks from Buffalo to Long Island.

Elected leaders in New York State deserve credit for their progressive approach to equipping communities with the tools they need to take the fight against blight into their own hands. As neighborhoods across the United States continue to grapple with the effects of the Finance Crisis an increasing number of communities are forming land banks. Today, there are more than 170 land banks in the United States and in 2019 the neighboring states of New Jersey and Pennsylvania enacted statewide land bank legislation.

Communities throughout the United States and New York are increasingly recognizing the value of land banks as a progressive and proven way to responsibly reclaim vacant properties. In December 2018, New York State adopted legislation increasing the number of land banks authorized in New York State from 25 to 35<sup>8</sup>. The New York Land Bank Association (NYLBA) commends our elected representatives for increasing the statewide cap and has received interest from communities exploring forming land banks from all over the state.

New York State's land bank program serves as a model for others across the nation. New York has developed one of the most active and sophisticated networks of land banks in the United States. New York's land banks have achieved nationally recognized progress, which has exceeded even the most ambitious expectations. However, our program is at risk for falling behind, which will result in a reduction of our considerable pace of progress.

To date, New York's land banks have been funded primarily through the New York State Attorney General's *Community Revitalization Initiative* using funding obtained from settlement agreements with large financial institutions for misconduct that led to the 2008 financial crisis. While this money has been incredibly meaningful to land banks and the communities they serve, there is currently no additional funding identified for land banks.

A lack of sustained funding limits the number of problem properties land banks can address, incentivizes short-term planning and projects over longer-term (and more impactful) strategic planning (including "land banking"), undermining the full potential of land banks intended under state law. Without sufficient financial support to address the scale of the problem, the number of blighted problem properties that New York's land banks can reclaim remains limited, leaving local governments to shoulder much of the burden of maintaining and redeveloping problem properties as these powerful community development tools remain underutilized.

**In order to continue our collective work and foster the growth of new land banks, the New York State Land Bank Association respectfully requests \$40 million in funding in the FY 2020-2021 state budget to be apportioned among land banks based on the size of the community served and the scale of their respective blighted property challenge as well as funding for capacity building for the up to ten new land banks anticipated to be created throughout the state this year.**

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<sup>8</sup> 2018 Senate Bill 58717 and 2018 Assembly Bill A11233

## **New York Land Bank Association**

We must continue to think ahead. Unwinding a century of disinvestment requires ongoing funding. It's no surprise that the most successful land banks in the nation have secured recurring, adequate, and predictable public funding. With a comparable funding model, New York State could bolster its already impressive network of land banks, reverse decades of decline, restore communities, and become the national model for combating blight and improving neighborhoods in every corner of the state. The New York Land Bank Association has developed a reoccurring model and looks forward to working with our elected officials on its adoption so we may remain at the national forefront of rebuilding our neighborhoods and creating more, safe, quality affordable housing.

Land Banks have proven to be wise investments, generating a positive return for every public dollar invested, and financial support for land banks would complement other innovative state programs such as the Restore New York Communities Initiative, the Downtown Revitalization Initiative, and the Upstate Revitalization Initiative. An investment in land banks by New York State will help break the insidious cycle of disinvestment experienced by so many communities and complement existing state programs, energizing revitalization efforts throughout the state. In addition, most land banks focus on economically distressed neighborhoods and own or have access to real estate and statutory powers that can help better position communities for economic development investments through the forthcoming federal Opportunity Zone program (nearly every land bank in New York State has at least one designated census tract within its operating zone).

Vacant and abandoned properties are not an "upstate" or "downstate" issue, they are a New York State issue. Ultimately the costs these properties impose on our communities is borne by all New Yorkers. By continuing to invest in New York's land banks, we have an opportunity to stop the damage that vacant and abandoned properties are causing to our residents, communities, economy and local governments.

History has shown that vacant and abandoned properties cannot be responsibly addressed through traditional approaches. We cannot adequately address racial, social and economic disparities without addressing the tens of thousands of zombie properties that burden our economically distressed neighborhoods and disproportionately harm our vulnerable population. Through land banks, New York State has a progressive and proven way to strengthen communities, revitalize neighborhoods, generate local economic development, create more affordable housing, preserve open space and help address the disparities that have unjustly harmed residents of New York State.

All New Yorkers deserve safe and affordable neighborhoods. New York cannot afford to let its land banks go unfunded. Our state representatives can help us achieve this by supporting the addition of \$40 million for New York's land banks to the FY 2020-2021 budget and by working with the New York Land Bank Association to adopt a reoccurring funding model.

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## New York Land Bank Association

### **WHAT IS A LAND BANK?**

Land Banks are not-for-profit local public authorities that work in collaboration with community members and local governments to revitalize neighborhoods by returning vacant, abandoned or tax-foreclosed properties to productive use. Land banks are provided with statutory powers needed to address problem properties more efficiently than government or the private sector. There are currently 25 land banks located throughout New York State and 10 more can be created under the current cap.

### **BENEFITS OF RECLAIMING VACANT PROPERTIES THROUGH A LAND BANK**

Land banks are specifically designed to address the harms that vacant and abandoned properties impose on communities and return properties back to productive use in a cost-effective and efficient manner. Land banks can achieve outcomes that local governments and the private sector often cannot in weak markets or in response to market failures like the mortgage foreclosure crisis. Benefits of land banks include, but are not limited to:

- ✓ Increased affordable, first-time homeownership, equitable development opportunities
- ✓ Savings to local governments, shared services, cost-effective maintenance of abandoned properties
- ✓ Improved property values increase property tax revenue and grow home equity
- ✓ Direct investment in distressed neighborhoods
- ✓ Improved quality of life and public health for people who live near abandoned buildings
- ✓ Economic development, opportunity zones, job creation
- ✓ Brownfield redevelopment, open space preservation, environmental conservation

### **CORE CHALLENGE**

**The primary challenge facing New York's land banks is inadequate and unpredictable funding.** A lack of predictable funding limits the number of problem properties land banks can address, encourages land banks to be risk-averse, incentivizes short-term planning and projects over longer-term (and more impactful) strategic planning (including "land banking"), and undermines the full potential of land banks. Without sufficient funding to address the scale of the problem, the number of blighted problem properties that New York's land banks can reclaim remains limited, leaving local governments to shoulder much of the burden of maintaining and redeveloping problem properties as these powerful community development tools remain underutilized. To date, New York's land banks have been funded primarily through the NYS Attorney General's Community Revitalization Initiative using funding obtained from settlement agreements with large financial institutions for misconduct that led to the 2008 financial crisis. There is currently no additional funding committed for land banks.

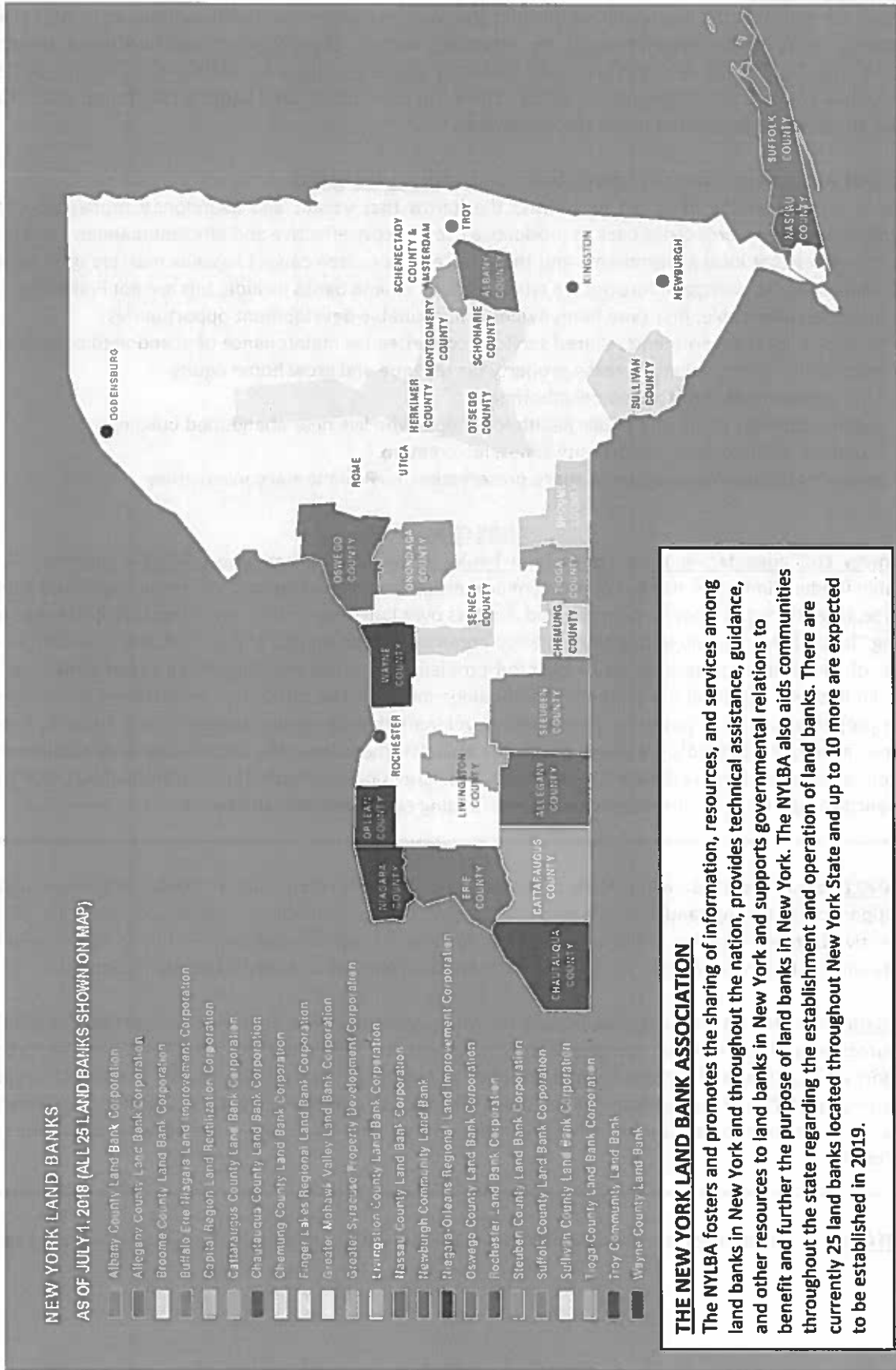
### **REQUEST**

**FY 2020 Budget:** The NYLBA respectfully requests \$40 million in funding in the FY 2020-2021 state budget to be apportioned among land banks based on the size of the community served and the scale of their respective blighted property challenge as well as funding for capacity building for the up to ten new land banks anticipated to be created throughout the state this year (see included handout for details).

**Legislation:** The NYLBA is seeking a dedicated, recurring, and predictable source of funding that doesn't draw resources away from existing, complementary programs, is "right-sized" for each land bank and able to support a broad range of mission-related activities to fight blight and abandonment. The NYLBA proposes amending the NYS Real Estate Transfer Tax Law to charge an additional \$1/\$500 in Counties that have land banks, which would be dedicated to funding that county's land bank (see included whitepaper for more information).

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# New York Land Bank Association



**THE NEW YORK LAND BANK ASSOCIATION**  
 The NYLBA fosters and promotes the sharing of information, resources, and services among land banks in New York and throughout the nation, provides technical assistance, guidance, and other resources to land banks in New York and supports governmental relations to benefit and further the purpose of land banks in New York. The NYLBA also aids communities throughout the state regarding the establishment and operation of land banks. There are currently 25 land banks located throughout New York State and up to 10 more are expected to be established in 2019.

# NY Land Banks Seek Dedicated Funding Source to Fight Blighted and Abandoned Properties

## I. Overview

There are now 25 land banks across New York State – local public authorities created to address blighted properties that the private market cannot more nimbly and efficiently than local governments could themselves. Land Banks have proven to be highly adaptable to local conditions and these 25 organizations take a variety of different forms and focus on a range of issues related to blighted and abandoned properties, depending on their local context. The longest operating land banks in New York have existed for nearly seven years.

The problems of blighted and abandoned properties have received much attention since the recent mortgage foreclosure crisis, though the epidemic has been growing for decades as the long term result of the changing economic role of the former industrial “legacy” cities, resulting in extremely distressed NY communities. Abandoned properties prevent new homebuyers and businesses from moving and investing into older neighborhoods, depress property values, prevent existing homeowners from growing wealth through home equity, limit the ability of investors to finance new businesses or improvements in these areas, and limit the ability of local governments whose property tax bases are depressed to provide services in our most distressed communities.

When land banks are adequately funded, they can proactively combat these issues. With a variety of funding sources including local, state, and other sources (just over \$70 million in mortgage settlement funds being the biggest source of funding available to NY land banks to date) these young organizations have hit the ground running. As of late-2018, acquired over 2,800 blighted properties, sold over 1,200 to other parties who renovated or redeveloped them, renovated or redeveloped 500 themselves, and demolished over 600 hazardous, deteriorated structures. Those activities leveraged over \$100 million in private investment, returned \$40 million of assessed value to taxable status, leveraged \$14 million in local government funding and \$15 million in other grant funds, and generated \$20 million in sales revenue for the land banks to further support their work.<sup>1</sup> Land banks have proven that public investment in this work reaps rewards.

While the work New York State land banks have done to date is impressive, this is just a first step and it pales in comparison to the scale of New York’s blighted and abandoned property problem. Over 280,000 housing units in NY State are categorized as “vacant for no reason” (not for sale, for rent, seasonally occupied, etc.).<sup>2</sup> Each of these units has a negative impact on neighboring property values, erodes the local tax base, and negatively impacts neighbors’ quality of life. This Census statistic does not include additional problem properties such as vacant land, vacant commercial, religious, or industrial properties, brownfields, etc. New York State is boldly responding to the mortgage crisis by investing in hardest hit communities and holding banks accountable through the Zombie Property Law. But in many NY communities, zombies and foreclosed properties represent only a piece of the abandoned property landscape where the problem of abandoned properties has been developing over decades of sprawl in some areas resulting in stagnation and disinvestment elsewhere. Land banks working with their local governments and code enforcement can holistically address a far wider array of blighted properties in addition to zombies and, with sufficient resources, land banks can address the scale of the problem.

While redevelopment of these blighted properties is the ultimate goal, the interim steps of foreclosing, taking ownership, and land banking them with a public entity addresses a range of issues. As abandoned properties sit empty and tax delinquent they detract from neighbor’s quality of life, negatively impact their home equity, and influence perception of that neighborhood discouraging others from investing or moving there. From the municipal perspective they are a drain on police and fire resources as they respond to issues at these properties, municipalities often bear the cost of mowing and boarding these houses, and as long as they remain tax-delinquent but not yet foreclosed they represent uncollectable receivables that are annually billed by the municipality. Taking control of these problem properties enables a land bank

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<sup>1</sup> New York Land Bank Association 2019 briefing to the Joint Legislative Hearing on Economic Development

<sup>2</sup> US Census American Community Survey 5-year estimates 2015

to better secure the property reducing the need for police and fire response, transfers the cost of mowing, board-ups, and debris removal off the municipality's books, and takes this non-performing property off the tax rolls so that bills are only sent to properties that will pay and the municipality's collection rate is improved. Land banks, as the owners of the properties, can also better engage in preventive maintenance so as to avoid additional costly demolitions. Enabling the land banks to take on these properties will improve the fiscal condition of the distressed communities where land banks are located, but this work cannot be done without subsidy (or the private market would be addressing these properties).

***Five years since the first land banks were established, most NY Land Banks are unable to benefit their local communities by practicing strategic "land banking" due to the lack of a predictable source of long-term operating revenue.***

There are over 100 land banks across the country and the only ones who state they are able to proactively address blighted and abandoned properties in a financially sustainable way are those in Ohio, which receive a dedicated stream of revenue that is relatively predictable year to year.<sup>3</sup> NY land banks are seeking to emulate this type of recurring, predictable, flexible funding in order that they may address the scale of the abandoned property problems in their communities, complementing and expanding upon the work NY has done so far to address zombies and bolster local code enforcement efforts. Over the past seven years, the NY land banks have formed and grown a trade association to provide technical assistance to one another, collectively procure legal advice and educational opportunities, and to lobby for legislative amendments that have further reduced their operating costs and increased efficiency. Center for Community Progress (CCP) has studied and provided technical assistance to municipalities and land banks across the country, establishing itself as the national expert in supporting organizations fighting blight on the ground. CCP's Vice President, Kim Graziani notes, "New York has shown real leadership when it comes to supporting land banks as a way for communities to combat the negative impacts of vacant, abandoned, and deteriorated properties. Given the achievements made in just the last five years, land banks in New York are serving as national leaders in the field. If leaders in Albany, working with New York Land Bank Association and its allies, could find a creative way to provide land banks a predictable and recurring funding stream, New York would continue setting a new bar of excellence, and help define and shape the field of practice for years to come." Already being held up as a national model in these areas, and with a predictable funding stream like Ohio's to address the scale of the problem, and combined with New York's zombie law and other complementary efforts to fight blight, New York would emerge as the national model for other states wanting to address blighted and abandoned properties.

## II. History of NY Land Banks

Land Banks in NY are local public authorities created to "facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use. The primary focus of land bank operations is the acquisition of real property that is tax delinquent, tax foreclosed, vacant, abandoned, and the use of tools authorized in this article to eliminate the harms and liabilities caused by such properties."<sup>4</sup> There are many different approaches NY Land Banks take in pursuit of this mission. "While land banks may champion different strategies, establish different local priorities, or operate under different structures than one another, all aim for one common goal: to strengthen the communities they serve by acquiring problem properties, eliminating their liabilities, and transferring to new, responsible owners."<sup>5</sup>

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<sup>3</sup> *Take it to the Bank: How Land Banks are Strengthening America's Neighborhoods*. Center for Community Progress. 2014.

<sup>4</sup> NY Land Bank Act § 1601

<sup>5</sup> *Take it to the Bank: How Land Banks are Strengthening America's Neighborhoods*. Center for Community Progress. 2014.



The NY Land Bank Act was signed into law in 2011 and in 2012 the first five NY land banks were established—Syracuse/Onondaga County, Schenectady/Amsterdam, Buffalo/Erie County, Newburgh, and Rochester. The Land Bank Act permits Foreclosing Governmental Units (FGUs)<sup>6</sup> to create land banks, to be approved by Empire State Development. Land Banks can be funded by local FGUs, municipalities and state government by way of grants or loans or based on a local tax sharing agreement of 50% of taxes collected by participating tax collecting entities (i.e. City, County, School District) for the first 5 years after a Land Bank property is returned back to the tax rolls.<sup>7</sup> In 2013 the NY Attorney General programmed a portion of mortgage settlement funds from the nation's largest banks for Land Banks, making flexible operating and project funding available through a competitive application process. Due to the nature of mortgage settlements, additional rounds of such grant funding have been released on a sporadic basis, though at this point there is no expectation that this source of funding will continue as the mortgage foreclosure crisis winds down. Securing sustainable, dedicated funding was identified as one of the biggest challenges for land banks nationwide in Center for Community Progress's 2014 publication *Take it to the Bank: How Land Banks are Strengthening America's Neighborhoods* and *New York Land Banks* a report published by the NY Land Bank Association in 2017, which outlines the progress NY Land Banks have made in their first five years.

Since 2012, twenty-five land banks have been established in NY and have taken different forms based on the nature of their community's abandoned property problems, the ability and/or appetite for local financial support, and how prominent a role FGUs want their Land Bank to play in the foreclosure process.<sup>8</sup> Supported by local, largely unrestricted<sup>9</sup> funding the Syracuse and Albany County Land Banks have been able to take on large numbers of vacant, abandoned and tax-delinquent foreclosed properties. These organizations redevelop some properties very quickly using grant funds or leveraging private investment. But they also use local funds and sales revenue for other mission-related work such as much-needed demolitions (even if there isn't an immediate opportunity to sell the resulting lot) and, where the opportunity presents itself, assemble clusters of adjacent properties into more desirable sites for planned development. This site assembly work is often time-consuming and may not be completed within a defined grant period because properties are acquired via tax-foreclosure in an ad hoc manner, but land banks can engage in such activity more cost-effectively than a private investor can because land banks are wholly tax-exempt and economies of scale keep maintenance cost per property down. Furthermore, as a public entity, a land bank is uniquely designed to carry out its activities, such as site assembly, property redevelopment and sales, in the public interest and support of local planning efforts.

Despite national recognition of New York State's land banks as leaders in the field, most NY land banks are taking a more focused, conservative approach due to long-term financial insecurity. Newburgh Community Land Bank is focused on the most distressed census tract in the City of Newburgh, Suffolk County Landbank is focused on brownfield properties, and Chautauqua County Land Bank acquires a handful of properties via County foreclosure each year according to a ratio that

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<sup>6</sup> Local governments that foreclose on tax-delinquent properties

<sup>7</sup> Only a handful of land banks have successfully gotten their taxing jurisdictions to approve the 50%/5year split and it generates a relatively small amount of revenue.

<sup>8</sup> Some communities direct specific properties to their land bank and others expect the land bank to receive all or nearly all tax-foreclosures. In some cases, the FGU intends for the Land Bank to address a narrow segment of tax-delinquent properties, or the FGU may wish to keep auctioning off some properties since that provides a source of revenue for the FGU.

In other cases, FGUs have made the land bank the default recipient of tax foreclosed properties so that the 'good' properties that generate sales revenue can cross subsidize the 'bad' properties that lose money. Making the land bank the default recipient of tax foreclosed properties means they will be less reliant on the FGU for financial support and establishes one consistent sales process for potential buyers to acquire tax-delinquent properties rather than making the land bank compete with the auction for buyers. Land banks can also guarantee better outcomes than an auction process by screening buyers and placing certain terms and conditions on the sale.

<sup>9</sup> Although all land bank expenditures must be mission-related and expenditures are restricted in numerous ways by Public Authorities Law.

allows them to cross-subsidize their work, but limits the number of the 'most distressed' properties that they can take on.<sup>10</sup> Other land banks are only taking on specific, short-term projects funded by the AG's Community Revitalization Initiative (mortgage settlement funds). Financial pressure also often necessitates land banks to make a quick sale to maximize revenues, which is often in conflict with the long-term public purpose of acquiring land for improved development.

Tasking a public agency with acquiring and 'banking' land became a popular concept in the 1960s as many inner-city neighborhoods experienced increased property abandonment and neglect. Land banking as a strategy can't be achieved if land banks only take on projects that they can fund and complete in the immediate future. "To militate against the growing inventory of abandoned, tax-delinquent inner-city properties, land banks were proposed as a governmental entity to acquire and manage the properties no longer accessible to or desired by the market. The conceptual roots of land banks and land banking thus lie at both ends of the market spectrum. In a heated private market consuming all available real estate, a land bank could preserve public spaces for future public needs and priorities. In a collapsed market, leaving abandoned real estate as the litter of a consumption society, a land bank could serve to convert the liabilities into assets."<sup>11</sup>

### III. Why Publicly Fund Land Banks?

- A. Land Banking and redevelopment of blighted properties helps to grow the local property tax base and saves municipalities costs associated with "doing nothing" and letting abandoned properties languish, helping distressed municipalities rely less on state aid and other outside sources of revenue.

The NY OAG's \$32 million investment in land banks under their Community Revitalization Initiative program between 2013 and 2016 (additional funds were made available for 2017-18).<sup>12</sup> Reports by the NY OAG and the NY Land Bank Association<sup>13</sup> show that this program leveraged \$77 million in private investment, and \$23.5 million in other grant funds, returned hundreds of properties to productive use and returned over \$28 million in assessed property value to taxable status, which will generate local tax revenue annually. Syracuse's land bank has been the default recipient of tax-foreclosed properties for the past four years and has found that for every \$1.00 the City invested in its operations it was able to attract \$2.90 in private renovation investment, \$2.10 in other grant funds, and \$2.66 in assessed property value returned to taxable status. Properties returned to taxable status are generating property tax revenue for the first time in years, with a land bank as its partner, the City has improved collection of delinquent tax receivables, and on-time tax collection rates are improved. But even getting the properties for \$151 each, the land bank cannot cover its own costs to provide these community benefits, sales revenue supports the organization, but unrestricted financial support is necessary to fund demolitions, subsidize redevelopment of properties, and to bridge operating deficits.

The Albany County Land Bank has also been the default recipient of many of Albany County's tax-foreclosed properties for the past three years and has generated approximately \$8.20 in return of investment for every \$1.00 of direct operating funds it received from Albany County (\$2.81 in incentivized private renovation investment, will enable \$2.27 in assessed

<sup>10</sup> Chautauqua takes on three "A" or high-quality properties and two "B" properties for each "C" property that needs to be demolished.

<sup>11</sup> Land Banks and Land Banking 2<sup>nd</sup> Edition. Frank S. Alexander. Center for Community Progress. 2015.

<sup>12</sup> Since then an additional round of awards has been announced, bringing the total amount of CRI funds directed toward land banks by the Office of the Attorney General since 2013 to over \$80 million.

<sup>13</sup> *Revitalizing NY State: A report on NY Attorney General Eric T. Schneiderman's Land Bank Community Revitalization Initiative*. NYS Office of the Attorney General. November, 2016. [https://ag.ny.gov/sites/default/files/oag\\_land\\_bank\\_report.pdf](https://ag.ny.gov/sites/default/files/oag_land_bank_report.pdf)

*New York Land Banks. A five-year progress report by the NY Land Bank Association published May 2017.*  
<http://syracuselandbank.org/wp-content/uploads/2017/05/NYLBA-publication-FINAL-05-04-2017.pdf>

property value to return back to taxable status through closed sales, and generated \$3.11 in existing and committed grants).

And while redevelopment is the ultimate goal, studies show that even the interim step of taking title and land banking properties helps the municipality avoid expenses and losses that it would otherwise bear. As abandoned properties sit empty and tax-delinquent they detract from neighbor's quality of life, negatively impact their home equity, and influence perception of that neighborhood discouraging others from investing or moving there. From the municipal perspective they are a drain on police and fire resources as they respond to issues at these properties, municipalities often bear the cost of mowing and boarding these houses, and as long as they remain tax-delinquent but not yet foreclosed they represent uncollectable receivables that are annually billed by the municipality. Taking control of these problem properties enables a land bank to better secure the property reducing the need for police and fire response, transfers the cost of mowing, board-ups, and debris removal off the municipality's books, and takes this non-performing property off the tax rolls so that bills are only sent to properties that will pay and the municipality's collection rate is improved. Land banks, as the owners of the properties, can also better engage in preventive maintenance so as to avoid additional costly demolitions. In Toledo, which has an estimated 9,300 vacant buildings and 3,900 vacant lots, a recent study estimates that those properties cost the City over \$9 million/year and that by dampening nearby property values they rob their neighbors of somewhere between \$35 million and \$98 million in home equity.<sup>14</sup>

Other studies in Ohio have shown that demolition of blighted properties that cannot be renovated increases the value of nearby homes, further growing the tax base.<sup>15</sup> In weak market neighborhoods, it wouldn't make sense for any private investor to spend \$25,000 or more on a demolition just to end up with a vacant lot that requires further subsidy to cover the cost of new construction, but the demolition is a worthwhile investment for the public to make to stabilize home values and retain existing residents.

- B. If equipped with a predictable revenue source that provides dependable funding, land banks will be able to address the true scale of blighted and abandoned properties, working to shift the market and grow wealth in distressed communities.

Predictable revenue will enable land banks to undertake the long-term work of assembling, land banking, and redeveloping properties that the private market cannot or will not address.

Eliminating eyesore properties and repositioning blighted properties for redevelopment addresses significant quality-of-life issues that discourage people from buying property in these areas and discourage employers from locating in distressed communities. If those obstacles can be cleaned up this will attract private investment in newer "smart growth" infill development to continue to diversify the housing stock to attract the changing demographics that are interested in more compact, walkable development, or even maintain the desired character in suburban and rural communities.

To shift the demand in the weakest markets takes sustained effort and long-term land banking. If successful, it will improve surrounding property values, which will grow equity for existing property owners and help investors seeking to finance improvements in distressed areas. Facilitating this investment will attract more residents and businesses to previously distressed neighborhoods and grow the local economy. Properties returned to the tax rolls result in the private investment and tax revenue generated that we describe above, but properties foreclosed upon, removed from the tax rolls, and land banked, bring other less easily quantified benefits in this interim period: properties are owned by a local,

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<sup>14</sup> *A Conservative Analysis of Costs Imposed by Vacant and Blighted Properties in Toledo: Conducted at the Invitation of the Junction Neighborhood*. Center for Community Progress for the Lucas County Land Reutilization Corporation. June 2016.

[http://www.communityprogress.net/filebin/160630\\_TASP\\_LCLRC\\_Toledo\\_Cost\\_of\\_Blight\\_Study\\_Final.pdf](http://www.communityprogress.net/filebin/160630_TASP_LCLRC_Toledo_Cost_of_Blight_Study_Final.pdf)

<sup>15</sup> *Land Bank 2.0: An Empirical Evaluation*. Whitaker, Stephan and Thomas J. Fitzpatrick IV. Federal Reserve Bank of Cleveland. 2012. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2182175](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2182175)

accountable entity that can maintain them better while land banked than their prior owner did, cooperate with local government, police and fire departments, and as they gain site control they can plan for redevelopment that wouldn't be possible without site control and property ownership and have shovel ready sites when resources become available.

Buffalo/Erie County Land Bank (BENLIC), for example, grapples with a crushing legacy of vacancy, blight, and abandonment that predates Land Bank legislation and can't catch up with the scale of the problem. Erie County has refrained from foreclosing on thousands of tax liens due to lack of in-house staff capacity and funding. The City of Buffalo is the custodian of thousands of vacant lots acquired over time, most of which are the end product of demolition. Nearly 6,000 homes have been demolished in Buffalo since 2006. If adequately resourced, their land bank could assist with the administrative burden of foreclosures and a large number of nonperforming properties would either be returned to productive use and tax-paying status or be removed from the tax rolls so as to no longer be a drag on their annual tax collection rate. And the land bank could partner with the City to consolidate previously foreclosed properties under the land bank's umbrella so that the City could utilize the land bank's more efficient sales process to get properties back into private ownership and tax-paying status more quickly. In both of these cases limited resources has hindered local government's ability to deal with the scale of the problem.

#### IV. Funding Models to Emulate

Ohio land banks are some of the most successful in the nation, able to tackle the scale of the blighted and abandoned property problem, because the Ohio land bank act provides a long-term predictable revenue source. A strong example of this in New York State is Schenectady Metroplex, which has utilized predictable long term funding to land bank (long-term planning/predevelopment and site assembly) in the downtown and along key commercial corridors.

##### A. Ohio Land Banks

In Ohio, Counties with Land Banks can increase the interest rate on delinquent property taxes from 3% to 8% and direct that additional revenue to their land bank. This was considered a good public policy move in Ohio since this penalizes property owner who have not paid their taxes and does not impact responsible owners nor does it take revenue from local government. For the [Cuyahoga County Land Bank](#), the largest in Ohio, this additional interest generates \$7 million per year which they're able to use for mission related activities such as renovations when development subsidy is required, demolitions, property maintenance and other carrying costs. This secure funding gives them the flexibility to make decisions based on the public good, not just their bottom line, engaging in jobs skills training programs, targeted housing programs for refugees and veterans, and other such programs that generate a community benefit but don't necessarily maximize sales revenue.

##### B. Schenectady Metroplex

The Schenectady Metroplex Development Authority ("Metroplex") is a public benefit corporation created<sup>16</sup> to pursue a comprehensive, coordinated program of economic development activities in the Route 5 and Route 7 corridors of Schenectady County, New York, with special emphasis in downtown Schenectady. Metroplex is a nimble, efficient tool for economic development in key commercial corridors. It can design, develop, plan, finance, create, site, construct, renovate, administer, operate, manage, and/or maintain buildings, parks, structures, and other facilities within its service district. These include industrial, manufacturing, entertainment, and infrastructure facilities, and business, commercial, retail, and government office buildings.

To carry out its corporate purposes, Metroplex is vested with and has broad powers, including the authority to borrow money, issue bonds, and enter into contracts and leases. The Authority is statutorily entitled to receive a portion of all

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<sup>16</sup> Metroplex was created in 1998 through NYS legislation, pursuant to Article 8, Title 28-B of the New York Public Authorities Law.

sales and compensating use tax revenue received by Schenectady County, which may be used to support all of its statutorily authorized purposes and powers. Upon the establishment of Metroplex, the County agreed to increase sales tax .5%. 70% of that increase is dedicated to Metroplex and 30% to property tax reduction. This dedicated funding stream is legislated to continue until 2037, and has been extended by local option multiple times due to the success of the Metroplex program. In 2016, this totaled over \$8 million to support Metroplex's operations, projects and debt services from bonded projects. Metroplex has \$100 million in bonding capacity to meet its project funding requirements.

Since inception, Metroplex has spent approximately \$175 million in support of economic development activities throughout Schenectady County that has leveraged over \$800 million in project funds from the private and public sectors. Metroplex has been able to use the predictable funding source to generate impressive outcomes specific to the revitalization of two key economic corridors. If the Capital Region Land Bank is expected to achieve similar success in the surrounding neighborhoods, with a focus on residential properties, it will need a similar predictable funding source.

#### V. A Funding Model Adapted to NY

***NY Land Banks could more effectively combat blighted and abandoned properties, proactively taking ownership of problem properties, engaging in land banking and site assembly, and redeveloping underutilized properties, if they were assured of a recurring, predictable source of revenue available for a broad range of mission-related uses.***

***The ideal funding source for land banks would be:***

1. A "new" source of revenue that doesn't draw resources away from existing, complementary programs,
2. A dedicated source of funds that is recurring and predictable in order to support long-term planning and land banking,
3. Scaled to the size of the blighted property problem and the community in which the land bank is located, and
4. Available for a broad range of mission-related activities that fight blight and abandonment.<sup>17</sup> This will give each land bank flexibility to focus on the greatest needs in their community. Depending upon the community, that might be brownfield cleanup, affordable housing development, demolition of deteriorated and/or surplus building stock, commercial revitalization, or stabilizing greenspace in floodplain areas, etc.

Competitive funding programs currently offered by NYS do not provide recurring, dedicated funding that can support land banks' more long-term land banking and site assembly efforts since they must be applied for annually. These existing programs provide invaluable subsidy for redevelopment projects, but they don't fund the necessary pre-development work such as carrying costs and demolitions that land banks do speculatively in order to clear the way to attract yet-to-be-identified redevelopment projects to distressed neighborhoods.

We propose a way that NY might create such a funding source for land banks to combat blight and abandonment by increasing the Real Estate Transfer Tax (RETT) in counties that have land banks. This would scale the amount of revenue generated to the size of the community. Establishing such a revenue source at the state level, so that all NY land banks are funded in the same manner, is consistent with Ohio's DTAC model that is known nationwide as a best practice in the field of land banking.

Ohio is the only state whose land banks are aggressively combatting the scale of the abandoned property problem and doing so successfully, due to the availability and predictability of this funding. However, increasing the interest rate on delinquent property taxes in NY, where most communities are already at 12%, would likely prevent many property owners

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<sup>17</sup> Land banks' use of funds is already limited by Public Authorities Law.

from paying and may even be so burdensome as to reduce the overall amount of delinquent taxes and interest collected – an increase from 12% to 17% doesn’t seem fair or feasible.

**Real Estate Transfer Tax (RETT)**

The Real Estate Transfer Tax Law was passed in 1968, and the rate was increased in 1983 to \$2/\$500 or .4%. In 1993 a portion of this tax was dedicated to the newly formed Environmental Protection Fund. As of 2010 this tax generated \$493 million statewide, 44% of which was deposited in the Environmental Protection Fund and 56% in the Clean Water/Clean Air Bond Debt Service Fund. Several counties impose an additional local tax, including Broome, Tompkins,<sup>18</sup> Columbia, Essex, and Erie,<sup>19</sup> which has a total RETT of \$9/1,000. Some of these merely generate additional revenue for their general fund, but Erie County’s additional tax is dedicated to road repair and each year appears as equal revenue and expense lines in the County budget, resulting in no net effect on the County’s finances. In each of these instances, a local home rule law is passed and must be accompanied by state legislation enabling the local tax.<sup>20</sup>

If the Real Estate Transfer Tax Law were amended at the state level to charge an additional \$1/\$500 in counties with land banks, and then directed the revenue collected on that additional charge to the land banks,, this would be scaled to address the scale of blight and abandonment in those communities. As shown below, this also roughly scales the amount of revenue generated to the size of the community.

	Albany	Erie	Onondaga	Schenectady	Chautauqua
Total Population	307,463	921,584	468,304	154,796	132,646
# of vacant housing units	6,645	24,117	8,701	8,370	2,857
% of housing units vacant	4.81%	5.73%	4.27%	12.28%	4.28%
Revenue raised by \$1/\$500 RETT <sup>21</sup>	\$ 2,451,845	\$ 5,781,873	\$ 3,036,326	\$ 1,045,693	\$ 571,723
Median Home Price	\$ 208,400	\$ 130,000	\$ 135,900	\$ 165,800	\$ 84,500
Increased cost based on median home price	\$ 417	\$ 260	\$ 272	\$ 332	\$ 169

*Data from US Census 2015 ACS five-year estimates and NYS Dept of Taxation and Finance*

Amending the Real Estate Transfer Law at the state level (rather than having each county with a land bank pass home rule legislation separately), would be analogous to the way state law dictates that transit authorities receive a portion of the mortgage recording tax collected in that county. In that instance, the state added an additional .25% mortgage recording tax in each county with a transit authority, giving most counties (except those in large metro areas) the option to opt out, with the funds generated by that increased tax directed to that county’s transit authority.

An increase in the real estate transfer tax rate would result in a slight increase in the closing costs associated with a real property transfer – see above for examples based on the median home price in each county – but this is a one-time transactional cost typically paid by a seller from the sale proceeds at closing. Since it is a charge to the seller, this increase will not discourage new businesses or families from moving into the areas where this tax is imposed.

<sup>18</sup> <https://ecode360.com/8412710>

<sup>19</sup> <http://www2.erie.gov/legislature/sites/www2.erie.gov.legislature/files/uploads/1990-4.pdf>

<sup>20</sup> <https://law.justia.com/codes/new-york/2017/tax/> Articles 31 A – G. Note that some of these local laws exempt the first \$XX value of single-family home sales from the tax.

<sup>21</sup> [https://www.tax.ny.gov/pdf/2015-16\\_Collections/Table17.pdf](https://www.tax.ny.gov/pdf/2015-16_Collections/Table17.pdf)

## VI. Conclusion

New York land banks have made great progress fighting blight and abandonment over the past six years, leveraging funds granted by the OAG to more than double the impact of mortgage settlement grant funds. NY land banks are eager to continue that work and to expand upon it to address the scale of New York's blighted and abandoned property challenge. To do so, we're seeking to emulate best practices in funding that have given Ohio's land banks and Schenectady's Metroplex the ability to plan ahead and magnify their impact. NY Land Banks could more effectively combat blighted and abandoned properties, proactively taking ownership of problem properties, engaging in land banking and site assembly, and redeveloping underutilized properties, if they were assured of a recurring, predictable source of revenue available for a broad range of mission-related uses.

A dedicated funding source for each land bank will provide *predictable*, sustained resources that enable them to make long-range plans and engage in "land banking" abandoned properties that otherwise cannot be addressed successfully, in a way that achieves local planning goals, by the private market. Predictable resources are key to enable land banks to take on the risk that the private market and local governments cannot.

Creating a fund that can be used flexibly for mission-related work that fights blight<sup>22</sup> allows land banks to nimbly and efficiently address their community's biggest priorities – this might be brownfields, affordable housing, greenspace/floodplain issues, demolition/deconstruction of excess housing stock, etc. In the past, many communities have tried to use income-restricted community development funds to revitalize distressed neighborhoods, exacerbating the challenge of concentrated poverty. Providing *flexibility* in how these funds can be deployed won't result in these types of unintended consequences.

In addition to predictability, the resources need to reach the *scale* of the problem. Federal funding for community development has decreased significantly over the past several decades, while most legacy cities' abandoned property challenges have only increased. It has taken decades for the problem to reach this scale and even at the funding levels proposed in this paper it will take several years for land banks to catch up with the scale of the problem. Even in a healthy economy a certain number of properties are foreclosed upon for tax-delinquency each year and ongoing funding will ensure that land banks can facilitate the well planned redevelopment of those properties. As the crisis of blighted and abandoned properties subsides, this dedicated source of funding can support complementary work – the maintenance of permanent greenspace, development of affordable housing units as property values rise, and supports for economic development in challenged business corridors.

Abandoned properties prevent new homebuyers and businesses from moving and investing into older neighborhoods, depress property values, prevent existing homeowners from growing wealth through home equity, limit the ability of investors to finance new businesses or improvements in these areas, and limit the ability of local governments whose property tax bases are depressed to provide services in our most distressed communities. The cost of doing nothing is too high a price for our residents to pay. With current funding sources set to expire and several options available New York State has the opportunity to become a national leader in one of the most progressive and impactful approaches to combating blight. The time to act is now.

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<sup>22</sup> The use of funds already being limited by Public Authorities Law.

