

Land Bank Planning Work Session December 18, 2017

Members Present

John Arnold
Alex Zumbar
Lem Green
Janet Creighton
Bill Smith

RPC Staff

Bob Nau
Heather Cunningham
Lynn Carlone
Sarah Peters
Dave Thorley
Jill Gerber

1. Introductions

Nau stated the purpose of this meeting was to review with the Board the activities of the Land Bank and how the Board wants the RPC to proceed as the administrator of the SCLRC.

2. Side Lot/Vacant Lot Program

Nau stated that at this point in time the RPC should be able to conduct an evaluation to determine the merits of the Side Lot program. The purpose of the program is to get the properties back on the tax role and in productive use. If that is not occurring and the properties are ending up being tax delinquent again, the Board may want to reconsider how to move forward.

Peters stated the Side Lot program was started in 2013, and at that time, Lem Green was handling that program on a part-time basis. Once the RPC became the administrator, RPC took the program over, but Maureen Austin with Community Building Partnership (CBP) was still handling the reviews for Canton City. In 2016 RPC started handling all aspects of the Side Lot program. The first transfer occurred in 2013 with 250+ transfers in 2014. Soon the property owners that had 2015 transfers will be receiving property tax bills, so staff can track all the properties that were transferred. If the Board desires, RPC staff can do a follow-up study to make sure they are tax current and have maintained ownership.

Nau stated the Side Lot program is the most time consuming activity RPC does for the Land Bank. Peters spends 100% of her time on Land Bank activities plus an additional two full equivalents between everyone charging off their time. It is very labor intensive because there is so much interaction with the public. Staff can now go back and look at how successful it's been because the goal is to have these properties on the tax role and not to have them go tax delinquent. A couple of years ago at the first work session, the Board talked extensively about the fee structure, and that \$100 per side lot does not cover the actual cost of \$800-900 on average, so it's not a profit making venture. There was discussion about raising the fee or keeping it where it's at. If the fee gets too high, some of the customers will be lost, and generally speaking, the majority of the people have limited means in the challenged urban areas in Canton. This program should be evaluated to determine how successful it's been. Creighton and Zumbar were in agreement with evaluating the program. Peters stated any transfers that were done in 2013-2015 can be included, and the transfers that were done in 2016 are going to have bills come due in January.

Peters stated some of the side lot property owners were published in the paper recently for being tax delinquent, and the Treasurer's office had a *do not generate a bill* attached to the property.

For some reason these property owners did not get their parcels combined. So in some cases the new owners didn't get a bill, and consequently didn't know they owed. Staff check the applicants for being current on their taxes about 2-4 times during the process to ensure the applicant qualifies before they end up transferring. If at any time the applicant has missed a payment on their tax bill, staff informs them they must get current before proceeding.

Green stated conceptually, the applicant doesn't get the side lot until it is combined with their property, except in an odd situation where they are in a different taxing district and the auditor won't combine them. But the problem is if an applicant has a mortgage on their own property, the properties cannot be combined, because now half of their property is subject to the mortgage and half of it isn't, and that would be an impossible thing. Green suggested a review of the 580 properties that have transferred to determine how many are tax delinquent. Peters stated that staff will determine how many properties are combined, and then how many bills they have received, and if they have paid or if they have a balance. Peters stated that many other Side Lot programs in other counties are run only for lots that the Land Bank already owns, like the NIP properties. So for example, the Lucas County Land Bank doesn't go after properties like Stark County does through foreclosure based upon an applicant's request. The land bank already owns the property and are offering it through their Side Lot program to someone for \$100-200. They are not foreclosing upon it based upon a request, because they already own the property. So they are not incurring all these acquisition costs. They may have already done that or gotten it from a forfeited land list. The SCLRC did follow their policies on who is qualified and what parcels are qualified. The SCLRC's policy states that tax delinquent property or that which is already in the Land Bank's ownership, which is what the *side yard* program is in Cuyahoga County. They have a list of vacant lots that are available through their *side yard* program, and if someone wants it and lives beside it, they can get it.

Green was hopeful that there is not a problem, and maybe there have been two tax delinquent parcels out of the 500 and they had adequate excuses and it's been handled. Peters stated that she was not too concerned about it, because people are eager to get their lot because they are interested in doing something with it. They want it for a reason, and they are invested in it.

Nau stated through the NIP program, the Land Bank is acquiring these properties and will hold on to them for three years after the mortgage has been placed after demolitions. Peters stated staff is basically operating two side-lot programs; one program is regular where the applicant doesn't have to be the owner occupant and it can transfer to property owners (rental). The difference with these NIP lots are that OHFA regulations say it must be *owner occupied*, so the home owner must live beside the lot, and it cannot be a rental or a business. There are other dispositions for non-profits. The Land Bank has an agreement with Habitat to acquire properties in their targeted area in Canton. Habitat does qualify as a non-profit to acquire NIP lots after demolition, but there are other regulations they have to do after they take title, so staff has a separate application for Habitat non-profits to get these NIP lots. The way the agreements with the cities are set up, the Land Bank holds it for that three-year mortgage period and then transfers whatever properties don't get transferred through the Side Lot program, or to a non-profit at the end of that three years. So whatever is left over gets transferred to the cities. Peters stated over 30 properties have been transferred to Canton so far, and there is still another 50 +/- applications in various review stages that have to get approved by OHFA.

Zumbar added the city can transfer it for \$1 or can do whatever they want with it after the three years are up. Peters stated if it is transferred early, per OHFA's guidelines, then the city has to do something with it. Staff has received a lot of applications canceled for the NIP lots where the applicant

is a renter or the applicant is on land contract, so they don't qualify yet. Peters had been talking to Matt Bailey, with the City of Canton, about giving him a list of all of those that didn't qualify right now through the NIP Side Lot so that the city could then consider transferring them out after the three years.

Green asked if there are delays at Canton City with the processing of the applications for reimbursement for the refund from OHFA. Peters stated the cities must submit a reimbursement packet to RPC. Staff reviews the packet to make sure all the required paperwork is there. Beginning January 1st, RPC staff will submit the reimbursement packet with all the documentation and proof of payment to OHFA. The Land Bank pays the city, and OHFA will then reimburse the Land Bank. Green asked if there is a log jam there. Carlone stated the City of Canton owns 457 properties at this time, and only 270 packets have been submitted to RPC, and about 50-60 new properties have come in within the last few months. There are possibly 130 properties at various stages being processed at the city, but staff does not know whether or not the properties still need to be demolished or if the City is assembling the paper work. The only thing RPC staff knows is which properties are owned and what has been turned into RPC for reimbursement. Green asked if they are satisfied with the way it's going, because some people on council were left with the impression that RPC staff were dissatisfied. Carlone stated there is still plenty of time for these packets to be submitted and for reimbursement to take place, but it leaves the cities with the fact that they paid for services and haven't been reimbursed yet. That is why Carlone presented calculations at the Canton City Council meeting because there's at least a million dollars that the City could be getting back.

Nau stated in a perfect world the city would have additional staff that could be doing their packets quicker with more detail that could be approved, and they would be reimbursed on a timelier basis. Starting the beginning of the year, the Land Bank is going to have to pay the city directly without OHFA's preapproval. There is a little bit of risk involved with that. Zumbar stated no one wants to see the cities leave any money on the table and we want them to get fully reimbursed.

Nau stated they could do some leg work and evaluate the Side Lot program in terms of where the status of the properties are. Green stated he did not expect there to be any significant delinquency here. Zumbar stated he knew there was some delinquency and staff could contact Mr. Dicer, Deputy Director, in his office to assist them with the details. Zumbar explained that the Treasurer's office and the Auditor's office has the ability to change a code in the system so that a tax bill is marked "do not mail". When the SCLRC acquires properties this code is used, but for some reason it was left on some properties after being transferred. He believed there may be 20-25 properties where that happened, but this problem has been addressed. In order to help Peters save some time, she can ask Mr. Dicer to assist her.

3. Demolition Assistance Program (DAP)

Peters stated the Board did have concerns about the cities requesting funding assistance to help a private owner with demolition. The SCLRC policies as adopted are for properties that meet the blighted structural requirements per the ORC, but the requirements also are for either the community requesting the funding for property they own, or the community has done some kind of property owner consent or a nuisance abatement process on the property to be able to tear it down. For example, a city may have some property that has been abandoned, and it is vacant, dilapidated and needs torn down, and there's no viable owner that can do that themselves. The city decides to tear it down, and they come to the Land Bank and ask for funding assistance. Maybe there is a property owner and the house burned down and the city has consent from the property owner to tear it down because they

determined it's not safe and secure, and city comes to the Land Bank requesting funds. Funding is not for a business or some viable property owner that could do it themselves but just doesn't want to. Nau asked if it's a *requirement* that the city or community owns the property. Peters stated the policy reads all properties must be owned by the city, village or township; however, if the property is not owned, the community must have completed the proper legal authority to demolish the structure prior to requesting funding. So the city could request funding through the property owner's consent or a nuisance abatement. Thorley stated that was the situation in Louisville where a business burned. The city got consent from the property owner to tear it down, so the city abated a nuisance through the demolition assistance program. Zumbar stated that he really preferred to have the community involved, and if it's the community that owns the property, it's so much simpler. Peters did not believe the policies need changed because that is the requirement.

Thorley stated the situation that came about with Massillon was they had a couple of businesses that had approached the Land Bank to abate bad property that was owned by the business. A conversation that Thorley had with Massillon's law department was that the Land Bank's policies as written would allow that as long as the contracts and everything going on was by and between the city and the demo contractors. And that wasn't necessarily what had happened with the Erie Street property. Everything was being done by and between the business and the contractor, and not necessarily the city, until it came time for actual payment. Somehow the city had a purchase order to pay, but no contract. It really got convoluted and appeared to be a potential audit issue for the city later, and that is how this whole thing started to come about. Not to mention the fact they thought they might have had the wrong property torn down. The city eventually pulled it and paid for it themselves; the Land Bank did not get involved. So that was the first red flag that actually went up, that a property owner has a viable business and wanted to abate the nuisance structure, and they asked the city for help, but the only help that they were given was through the Land Bank to help pay that cost. That is what we were trying to avoid, however, Land Bank policies don't necessarily say that. He did not believe the Land Bank should contract with private entities to abate their nuisance.

Green stated it could be a clean deal in every respect except they were tax delinquent, but they could be under a contract for repayment, which they are legally entitled to. But he would be very negative if somebody that is on a delinquent tax payment contract and wanted help from the Land Bank to abate the nuisance that they created. Thorley stated the mission statement is to strategically acquire properties, return them to productive use, reduce blight, increase property values, support community goals and improve the quality of life for county residents. The program will facilitate Stark County cities, villages and townships with strategic demolition of blighted, vacant or abandoned properties that are beyond repair or rehabilitation. The SCLRC has the authority to enter into contracts for that. Nau stated the Land Bank has been diligent about making sure they are partnering with local political subdivisions; not the property owners. The cities have the responsibility to do whatever type of procurement that is necessary. Zumbar stated he spoke with the Mayor of Massillon about that property. He understood what the city wanted to accomplish, but Massillon didn't own that property, nor were they going to be able to get possession of that property even after the Land Bank would help them tear the building down. Nau stated in the Louisville example, they put a lien on the property, but that is a question that may need answered. Nau asked the Board if they were OK with it as long as the political subdivision is taking the lead in the demo, and they either own it or have legal authority.

Nau asked what the Board's view would be on a property that is tax delinquent. Zumbar stated that most of the properties the Land Bank is tearing down are tax delinquent. Peters stated the property demolished in Perry Township that was fire damaged was tax delinquent which is now being

pursued through foreclosure to then transfer to the neighbor for Side Lot. So the Land Bank helped the township pay for their costs for the demolition of an abandoned property that caught fire, so then the Township came to the Land Bank and asked for funding. Carlone pointed out not every property has been tax delinquent. Nau stated the Land Bank should be partnering with the local political subdivisions and reimbursing them. The Land Bank needs a copy of the city's contract with the demolition contractor, and then they will be reimbursed 50% of the eligible cost, irrespective of whether they are tax delinquent or current. Zumar was in agreement with that because the SCLRC is partnering with that community. Green stated he wanted to make it clear that it's discretionary with this Board. These requests should be submitted to the Board's judgement as to whether it is a worthy project, because if someone has been running a gas station and has polluted it, there is now a huge liability for remediation. Thorley stated the Board has always had that discretion. Staff has brought every one of these requests to the Board for review. He believed the Board was using their discretion every time RPC staff has had one of these come forward. Peters confirmed that staff is not processing any requests prior to Board approval. Nau stated it is helpful to know the rules, so when staff talks to the political subdivisions, they can be told the requirements and it is subject to approval of the Board.

4. Targeted Acquisition Assistance Program (TAAP)

Peters stated the majority of properties pursued under the TAAP have been for Habitat, but some properties pursued in Canton, Alliance and in Massillon have been identified along with a few other communities. Those have come to the Board for approval, but they always have to be tax delinquent, so the Land Bank can acquire them through the Board of Revision or through the Auditor's sale. The policies say for *communities*, which includes cities, villages or townships and non-profits.

The Land Bank has only completed targeted acquisition non-profit requests for Habitat so far. So the question is, does the Board want to open that up to other non-profit agencies, because the policy says for any non-profit. Green stated he would track the language in HB294, which describes certain community improvement organizations. Peters stated OHFA's requirements for a transfer of a NIP lot to a non-profit is that they must show proof that are a registered 501.c.3. Nau asked if there were some performance requirements there. Carlone stated the problem is, even if the organization is a 501.3.c. it must possess the capacity to complete the requirements. Peters stated that staff has developed an application for Habitat because they have identified a number of these NIP lots, but staff has not received any request yet. OHFA requires the non-profit to have initiated work after receiving title within a one year period of time. OHFA is very vague about how much work is completed as a requirement, but they must have done some kind of work within a year of taking title. They also have to submit design plans, so there is a number of requirements they have to meet, and staff would ask that of any other non-profit as well. It would be up to the Board's discretion on the capacity. Nau stated even the NIP guidelines specifically references Habitat as a non-profit being eligible. Clearly our Habitat does great work and they've got a lot of capacity and are very successful. There is another group such as Betty Smith with EN-RICH-MENT that needs evaluated. Thorley stated while EN-RICH-MENT does not have the track record of Habitat, Ms. Smith's organization is well respected by the City of Canton and is tied into Arts in Stark. She started the art garden on Fulton/7th, and has targeted other parcels in some very nasty neighborhoods. Creighton knew that Ms. Smith had done a lot in the community, and has worked with her through the years. At one time when Smith had Multiple Development Services (MDS) it was a 501.3.c. Peters stated EN-RICH-MENT is still a 501.3.c. Thorley stated but they are not sure whether she has a transition plan with these properties and is it just a single person behind this agency and when she is no longer capable are there others that can carry through. Peters stated EN-RICH-MENT has submitted a number of requests for tax delinquent lots through the vacant lot program which is under

review. One of those is a NIP lot, but the concern is if EN-RICH-MENT can complete whatever OHFA requires within the time period in the guidelines.

Carlone stated when the Land Bank gives properties to Habitat, staff feels comfortable that they are going to carry everything out. Staff has concerns with some of these other entities if they be able to carry it through; and how much guidance will they need; and do they have staff with the capacity to follow through. Peters stated right now EN-RICH-MENT can get a contiguous three-lot site that is not related to the NIP program. The Land Bank can get title through a tax foreclosure and transfer it to EN-RICH-MENT, so that would be a good starting second location, and then after the three years, the NIP lot could be applied for. Staff is reviewing several applications for EN-RICH-MENT. Nau stated after three years, the city gets control back of these properties and they can do whatever they want. They can transfer it without any strings attached. Thorley stated the question is as it relates to TAAP, does the Board want staff to place limits as to who qualifies. Staff did speak with Matt Bailey from the City of Canton concerning Smith getting these lots. Thorley had suggested the Land Bank acquire and transfer these properties to the City of Canton and a kind of lease agreement could be signed with Smith in case the city ever wants these properties for any other purposes. Bailey respectfully declined. Green stated that if staff is uncomfortable with what the rule is, they should just bring it to the Board. Thorley stated he was comfortable with that because the board will review it and act on it. Peters stated they wanted clarification either yes or no to others; the Board can and will review the requests if they come in.

5. Starfire Gas stations – Brownfield Sites

Thorley stated the tanks have been removed on the Starfire property at the 520 South Union, Alliance location that the Land Bank owns. Zubar signed a form that recently went down to the Petroleum Board (BUSTER) and staff is now waiting on a *no further action* letter to come back from them. The property will then be transferred back to the property owner, Mr. Alihassan. Nau stated that the prior property owner demolished the building after specifically being told not to. Staff was concerned about the liability of someone going on the property and having an accident. Nau stated the Land Bank still owns it. Zubar stated that he owns a property with several other gentlemen next to 520 S. Union. When a tree on the Land Bank property came down, it took out the back stairs of Zubar's property, but more trees will need removed there.

Thorley stated that early on when the Land Bank signed the contract, there were some issues with the Petroleum Board based on some fees and delinquencies. After the Land Bank took possession of it, Mr. Alihassan had a conversation with an individual at the Petroleum Board, stating that cost would be split into thirds between himself, the Land Bank and the prior owner. Thorley's conversation with the Petroleum Board prior was that the Land Bank would never have entered into this agreement if the Land Bank was going to incur any fees whatsoever. All that aside, this is a success story. Because the Land Bank took title and was able to help someone, grant monies were used to get this done, which leads into the other three Starfire gas stations that are out there.

There are three Starfire gas stations, one on Columbus Road, one on Market Ave North in Plain Township and one on Whipple Ave. in Canton Twp. Nau stated staff's understanding is the tank pulls were clean, so staff is expecting a *no further action* letter from BUSTER before going forward. The tanks were pulled on the Market and Whipple locations with grant money that RPC received. But there were some soil issues, so the properties didn't get a clean bill of health. The Starfire on Columbus Road had a phase 1 done, but no tanks were pulled. They issued a bankruptcy, but the owners stayed that process for a period of time, but it sounds like it's now going to Sheriff's sale. Thorley stated he had received a

judgment, and at the time the owner filed bankruptcy. He got out of the bankruptcy and it was dismissed in September, and John Anthony with the Prosecutor's office will bring it directly to sale on all of those. It will go to two sales, and if no one buys it, it will then forfeit to the Auditor and the Land Bank will have the ability to take it through the forfeited lands.

Nau stated at the Land Bank conference, the EPA is really pushing the Land Banks to take the lead on some of these orphan petroleum sites because of the immunity the Land Bank has. If the Land Bank were to take title to these petroleum sites, we would be eligible to apply for some of the abandoned gas stations clean-up funds of \$200,000 that the State has funded. Nau asked if this is something the Board would entertain. Once the properties are foreclosed upon, they go to the Auditor's control. Arnold asked if the Land Bank did take ownership would the \$200,000 grant money from the State be for each location. Nau stated yes. He didn't have a clean-up estimate, but the properties where the tanks have been pulled will probably be just some soil removal. Arnold felt it would certainly be a public way for people to understand what the Land Bank is doing. Nau stated the Land Bank has been very careful about not acquiring property without an end user. This is a little different, but there is risk in anything you do. There is a grant program out there, but that doesn't mean it will get funded, but he thought it was worth pursuing in cooperation with the local townships. Smith believed if the Whipple site was cleaned up it would be profitable. Arnold stated normally people are afraid to get involved but the Land Bank does have resources available to deal with it and get a clean title. Thorley stated this is not a decision the Board must make today because it is still within the foreclosure process. It will be forfeited to the Auditor after two sales and then depending on direction from the Board, this will be brought back for consideration. Creighton agreed and stated that is what the Land Bank exists for. Thorley stated the Columbus Rd property is almost an acre with a used vehicle dealership right next door who may or may not be interested in acquiring it, or this property could be sold. The Board believed these properties should be marketed. Thorley stated he would get an update of where they are in the process and will get to the Board in the January meeting.

6. Treasurer's Report

Nau stated in the beginning an arrangement was set up to handle fiscal activities that involved Beth Pearson with RPC and Jim Wallace in the Treasurer's office. This arrangement provided checks and balances whereby the RPC does the budget and approves invoices and the Treasurer's office acted as the Land Bank's Treasurer and handles all the money, prepares financial reports and signs the checks. That has worked well, but since Jim Wallace left, RPC has taken over some of those duties. Nau stated he was not entirely comfortable with this being a long-term arrangement. There were checks and balances in place that are not in place now. RPC was happy to help out in the transition, but he felt it was important to have those checks and balances back in place. Zumbar stated the Treasurer's office has a young man that was brought in as an intern and is now a deputy treasurer, and they are looking to give him more responsibility. The process in the Treasurer's office with Jim Wallace leaving created some reshuffling for both Jaimie Allbritain and himself, and he didn't believe that provided a good check and balance if he and Allbritain were the two people that are doing it. So that is why Jake Marion has been reshifted to assist. He believed ultimately it hasn't created too much of a problem. Nau stated with Beth Pearson retiring and Heather Cunningham being new, RPC has their own staffing challenges. Green asked Zumbar if the Land Bank is billed for the Treasurer's services. Zumbar stated yes, there is a contract in place.

7. Distribution of Board member Survey

RPC staff requested the Board complete a survey that was passed out that would assist in determining the priorities going forward.