



## Land Banks as Instruments of Equitable Growth: CLiME's Recommendations to the City of Newark

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Land banks are government-created institutions whose mission is to return vacant, abandoned and tax-delinquent properties into productive use. Land banks are empowered to acquire land, eliminate back taxes and tax liens attached to a property in order to create a clean title, maintain the land in compliance with local and state ordinances, and convey the property back into active use. As a mechanism for expediting the disposition of city-owned and/or abandoned properties, land banks can be a significant local government tool either for equitable growth or for more conventional economic development.

The land bank's purpose follows the priorities of local decision makers, and equity is not a legislative requirement. However, land banks can be a key instrument of equitable governance because they allow cities more centralized authority to direct public resources for community planning, wealth creation, and housing stability where they are most needed. Equitable governance carries the potential to stimulate local community markets hobbled by underinvestment, spread resources to resource-poor areas, and ensure greater fairness for disadvantaged community members. Land banks used in combination with other tools of equitable development can have even greater impact.

In July 2019, New Jersey created the necessary enabling legislation for New Jersey communities to create land banks. Earlier this year, the Newark City Council passed ordinances establishing the City's land bank. Pending approval, the Newark Land Bank Corporation will be administered by Invest Newark, a non-profit development corporation that manages many of the City's

development efforts, with an initial annual operating budget of \$3 million dollars that is expected to rise to as much as \$5 million in subsequent years. Properties transferred to Invest Newark will be owned by Invest Newark unless and until they are pursuant to the broad grant of land bank authority. Most in the first group of about a hundred properties are small, non-contiguous lots with and without existing structures on them, a characteristic that affects the kinds of uses (e.g., 2-4 unit residential, commercial, light industrial etc.) that may be possible.

The Rutgers Law School Center on Law, Inequality and Metropolitan Equity (CLiME) has examined land banks as a tool of equitable growth and offers the following recommendations to Newark and other cities on the application of equitable principles that will assure that land banks have the greatest public benefit.<sup>1</sup>

1. *Strategically Acquire Properties.*

Successful land banks develop strategic links in tax foreclosure processes to facilitate the acquisition of properties. Land banks will want to intervene in the pipeline ahead of speculators and investors in an auction process, particularly in more distressed markets where absent landlords and investors may actively buy up properties for cheap and leave them in disrepair. In New York, land banks have super bid authority, which allows them to jump to the front of other bidders at auctions. Newark's land bank starts out with a large remainder of properties after the final public auction of city-owned parcels in August, 2020. However, the city will want to plan for the acquisition of new properties over the life of the land bank.

2. *Disposition Strategies Should be Guided by Community Goals and Priorities.*

City and neighborhood priorities should inform the land bank's strategy, particularly its disposition strategy. Land banks do not need to reward the highest bidder when they sell land. They can choose to convey properties into affordable housing as opposed to high-rent condominiums. The City of Newark has made equitable growth a policy priority in the face of gentrification and significant displacement risk. Both arise from the city's acute shortage of affordable housing. Therefore, one of the primary goals of the city's

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<sup>1</sup> The authors submit these recommendations separately from and in support of those submitted on August 27, 2020, by the Newark Equitable Growth Advisory Commission, of which Prof. Troutt is a member.

land bank should be the creation of sustainable affordable housing opportunities. Neighborhood plans and goals may also dictate other priorities for the land bank such as a focus on particular neighborhoods, or an emphasis on specific programming such as single-family or multi-family residential, demolition, commercial or industrial space, or public spaces.

Beyond housing development, land banks can be used to attract and support community anchors, such as day care and other small businesses, clinics, skills development centers. The priority given any of these assets should derive from careful community needs assessments. This is all the more reason for land bank enterprises like Newark's Invest Newark to steward the property disposition process together with community planning and participation efforts.

3. *Partner with Affordable Housing Developers and/or a Community Land Trust.*

One way that land banks prioritize affordable housing is by conveying land to affordable housing developers or to Community Land Trusts (CLTs) through preferential pricing arrangements. CLT's are nonprofit trusts that separate the ownership rights of a home from the land on which it sits. Residents purchase the property, but the land remains under trust ownership in perpetuity. This reduces the cost of buying the home and creates opportunities for ownership and wealth-building. Cities and municipalities are increasingly exploring the pairing of land banks and CLTs to create long-term affordability. Richmond's land bank was recently the first to announce an official CLT partner.<sup>2</sup>

In Newark, in addition to general partnerships with the many capable community development corporations capable of and interested in developing affordable housing, Invest Newark should actively explore transferring some of the banked land to a CLT for the primary purpose of creating affordable housing options that remain stably under non-profit control through continued ownership of the underlying land. For example, Essex Community Land Trust and the Ironbound Community Corporation have already developed plans for a CLT in parts of the gentrifying East Ward. These efforts should be

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<sup>2</sup> <https://maggiewalkerclt.org/richmonds-cltland-bank-first-in-the-nation/>

continued and strengthened along with collaboration among other capable community development corporations that have the capacity to steward these complex, long-term arrangements. The combination of these housing vehicles may include sites of experimentation for other promising affordability strategies, such as Limited-Equity Cooperatives (LECs), tiny house villages for the homeless and small business investment corridors with capital pooled by community development financial institutions (CDFIs).

4. *Emphasize Transparency and Community Input.*

Because equity requires transparency and an emphasis on growing community participation, ensure that there is a fully transparent and public process for prioritizing, acquiring and disposing of properties. The ground rules for these procedures should be developed before the land bank becomes active, and should be revisited regularly with the opportunity for input from the public. Creating mechanisms for community input will improve strategies and also foster public good will. In New Jersey, land banks will be required to have community advisory boards and to provide them with access to certain information and opportunities, including the ability to comment on land bank decisions.

Newark should affirmatively engage in public community planning initiatives in order to solicit a broad array of visions and practices, including coordination with the Department of City Planning. Community planning over the disposition of city-owned land should be considered a rare opportunity. The development that occurs in these parcels may leave an irreversible mark on a neighborhood's composition, aesthetic and the character of its housing and retail markets. Under the auspices of the Planning Department, Newark is currently developing its required master plan. This intersection of interests—the community residents and organizations, Invest Newark, master planning by a city department with great expertise and a broad invitation to other experts—can help the city use the land bank as a planning asset for community transformation.

5. *Create Data Systems and Make them Public.*

Successful land banking requires data systems that can manage the property acquisition, and track properties all the way through the process through disposition. This necessitates

reliable and up to date parcel datasets as well as the ability to track property specific information and updates. New Jersey's statewide parcel dataset as well as county MOD-IV data can be leveraged in support of these efforts. New Jersey law requires that land banks develop and maintain an online, publicly accessible database of current and former land bank properties. Under Invest Newark control, Newark's land bank ordinance requires regular public reporting, the posting of available properties for sale on its website, and the creation of both a board of directors and a community advisory board. This is an opportunity to design data systems for maximum accessibility by the interested public. A transparent and accessible interface for the public fosters good will with the community and better business practices.

6. *Sustainable Funding and Budgeting.*

Land banks require ongoing funding. They are generally funded by government general fund appropriation, through the proceeds from sales, and/or from the receipt of some share of property taxes collected from banked properties. The implications of the funding decisions should be carefully considered. If a land bank is required to fund itself fully or primarily through property sales, it may limit its ability to prioritize affordable housing or other uses in support of lower income residents.

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