



THE LAND BANK OPTION: MAKING THE BEST DECISION FOR YOUR PROGRAM



BY GLADYS SCHNEIDER

Many Neighborhood Stabilization Program (NSP) grantees have arrived at a crossroads now that expenditure deadlines have been met and most, but not all, NSP-assisted properties have been completed. Decisions need to be made about those remaining properties that will require more time, money and effort before finding a suitable end use. The portfolios are in effect, already an informal land bank. The most pressing question is how to decide if a more formal land bank program needs to be implemented or if the remaining properties can be disposed of in a relatively short period of time without further actions. This article discusses some of the more critical areas to consider and how to make sure the land plan will comply with NSP regulations.

Most NSP grantees did not initially envision the need for a land bank program that would survive long after the NSP grant funds had been expended. For many grantees, NSP projects have been completed or will be within 12-18 months after expenditure deadlines. But some grantees or their partners are holding a portfolio of NSP-assisted properties that have been stubborn to be sold or developed. There could be many reasons for this, including lagging homebuyer markets, the purchase of more properties than there are no funds to rehabilitate, or completed projects that remain vacant due to location or demand problems. Perhaps marketing efforts have not been successful in the disposition of the homes. It may have been the specific intention to hold these properties for the long term as part of a comprehensive program. Realizing that maintaining vacant or improved land

takes time and funding, communities are spurred to make a decision and get a plan sooner rather than later.

Once the reasons for remaining inventory have been examined, it is important to address these factors in considering the land bank option. Land bank programs must be carefully tailored to meet the specific goals envisioned for transferring properties to a use that supports neighborhood stabilization. In Florida, communities considering land banks typically have less than a couple dozen vacant lots that were acquired with NSP funds and cleared of blighted buildings. It may be necessary to wait for the market to improve for new construction and buyer demand. In some cases the neighborhoods continue to experience challenges and buyer demand is weak for that area. A good first step is to classify the inventory at this point into properties that can be moved quickly, versus properties that will require more time. For example, if there are properties that will clearly be used for infrastructure, retention, or another public utility use, make the transfer as soon as possible to get it off the list. For others, re-evaluate the marketing strategy and adjust if needed. Check the validity of home-buyer waiting lists and make sure pricing is attractive. Strong marketing efforts can prevent long term holding expenses.

If the overall design is part of a long term strategy or it is unlikely that the properties will be disposed of in 18-24 months, it may be wise to consider activating the NSP Eligible Use C Strategy to form and operate a Land Bank. The main benefit to this is time- doing so will gain a holding period of up to 10 years. If other NSP activities have been completed, designating the properties for land banking will allow the grantee

to begin the close out process for the NSP grant. After 10 years have passed from the date the Closeout Agreement is executed, if the properties have still not yet met a national objective and eligible activity, NSP funds will need to be repaid, in part or in full, or the property will revert immediately to the CDBG program. *See information on right for more information on NSP Closeout.

After examining the inventory and the anticipated horizon for completion, the next major consideration is cost. The cost of implementing either a simple temporary land bank or a formal program can be fairly predictable but funding sources are limited. As the custodian of the properties, the land bank must have funds available for maintenance, legal and title actions, and marketing. It is important when establishing the land bank to first dispose of the obviously simple transfers such as utility easements, parks, or conservation. This will transfer maintenance costs to other departments or agencies and will help the land bank focus on its primary mission of neighborhood stabilization and affordable housing. Remaining properties may need to undergo legal work to quiet title or planning procedures such as re-zoning or re-platting. The land bank will need to develop an outreach and marketing plan to aggressively seek buyers or developers. Another concern is environmental reviews. When the NSP program was initiated, environmental clearances were completed. A property that will later undergo a change in use may require a second review if for example, the property was originally commercial but will be redeveloped as residential. This is a future expense that is not always anticipated. Understanding what each property will require will help to build a more reliable budget.

***NSP Closeout**

For more information on NSP Closeout, see FHC article <http://www.flhousing.org/wp-content/uploads/2013/02/NSP-Expenditure-Deadlines-and-Closeout-Roll-Forward.pdf>.

See also the NSP Closeout Notice, Federal Register November 27, 2012 (288 FR 70799).

“Land Bank Plan - If the grantee has assisted a land bank, the grantee must submit a plan detailing how the land bank will meet the 10-year maximum land holding requirement of Section II.E.2.d of the Unified NSP Notice and Appendix I, Section E.2.d of the NSP2 NOFA. A list of any real property held in the land bank should be included in the plan along with addresses for these land-banked properties.”

NSP program income may be used to maintain the NSP-assisted properties in the inventory. These expenses are considered disposition costs and must be tracked by the property. NSP does not permit disposition costs for land banking to be passed on to future homebuyers. If NSP funds are not available, the local government will face using general revenue to maintain the land bank properties. It is possible to find a creative solution, such as teaming up with neighborhood improvement projects.

Along with costs and future proposed uses, the inventory should include a target date for completion. This will guide the budget process as well as ensure that the 10 year NSP time frame will be met. The inventory should be examined for types and locations of properties, adjacent uses and special characteristics. The origination should be noted to make sure any restrictions on future uses are known. The Plan should identify the long term goals for not only each property by the land bank program itself.

The inventory and the budget are two of three main sections of a land bank plan. The third is policies and procedures for acquiring and disposing of the properties. By now it is advisable to seek input from representatives from other departments such as utilities or parks that will be affected as well as neighborhood advocates and housing providers. An oversight committee will help guide the future planning process and help to build consensus. The land bank plan is starting to take shape. The oversight committee should agree on the primary mission and longevity of the land bank. The plan should identify the agency or organization responsible for the land bank operation. The plan needs to define the specific policies and procedures that will be followed in the acquisition and disposition of the

properties. This is important as the community and funders will expect reasonable and consistent performance. It will also prevent land grabs or end-runs by others who may not want to follow the mission of the land bank. Acquisition policies should clearly define the types of properties that have the potential to meet neighborhood stabilization goals. The acquisition policies are intended to prevent the land bank from becoming a dumping ground for environmental clean-up sites or obtaining properties that will be too expensive to maintain such as buildings whether vacant or occupied. The policies should identify the process for requesting properties, and selection criteria and priorities. The policies and procedures should describe how they will be transferred to result in affordable housing or other uses that support neighborhood stabilization and what enforcement mechanisms will be employed. Long term affordability requirements must be met for land banked properties in accordance with the NSP program. Transfer policies and procedures should be clearly drafted for unbuildable properties or parcels best suited as side lots (sale or donation to adjacent property owner), pocket parks, open space, or community gardens.

While the land bank may be administered by a local government, is not uncommon for nonprofit organizations to serve as the land bank. Land banking may be the sole purpose of the organization or its main purpose is affordable housing development. A nonprofit partner may already hold title to NSP-assisted properties but market conditions or a lack of available funding has stalled the completion of developments. The local government can authorize the nonprofit to serve as a land bank and develop a Land Bank Plan to guide in the eventual disposition of the properties. This will not only buy time, but re-establish policies

HUD DEFINITION OF A LAND BANK: A LAND BANK IS A GOVERNMENTAL OR NONGOVERNMENTAL NONPROFIT ENTITY ESTABLISHED, AT LEAST IN PART, TO ASSEMBLE, TEMPORARILY MANAGE, AND DISPOSE OF VACANT LAND FOR THE PURPOSE OF STABILIZING NEIGHBORHOODS AND ENCOURAGING RE-USE OR REDEVELOPMENT OF URBAN PROPERTY. FOR THE PURPOSES OF NSP, A LAND BANK WILL OPERATE IN A SPECIFIC, DEFINED GEOGRAPHIC AREA. IT WILL PURCHASE PROPERTIES THAT HAVE BEEN FORECLOSED UPON AND MAINTAIN, ASSEMBLE, FACILITATE REDEVELOPMENT OF, MARKET, AND DISPOSE OF THE LAND-BANKED PROPERTIES. IF THE LAND BANK IS A GOVERNMENTAL ENTITY, IT MAY ALSO MAINTAIN FORECLOSED PROPERTY THAT IT DOES NOT OWN, PROVIDED IT CHARGES THE OWNER OF THE PROPERTY THE FULL COST OF THE SERVICE OR PLACES A LIEN ON THE PROPERTY FOR THE FULL COST OF THE SERVICE.

and a schedule for the completion of the projects. It is important to identify who will be responsible for maintenance of the properties and what the consequences will be for failure to keep properties mowed and free from debris.

Additional properties can be added to the land bank as available if the mission of the land bank is to grow and be an ongoing provider of land. The Land Bank program can provide a comprehensive approach to not only manage the disposition of NSP properties but to establish a working mechanism for other surplus properties that may have transferred to the local government. Unlike Midwestern or Northern cities where thousands of houses have come into municipal ownership through lien and tax foreclosure, Florida’s cities and counties are more likely to acquire vacant platted lots through foreclosure or escheatment. The Land Bank program can provide a solid policy framework for managing this inventory and ensuring that they are a resource for affordable housing or neighborhood enhancing uses.

The land bank can serve as the core of an affordable housing development program. Along with NSP assisted

properties, surplus lands that are suitable for affordable housing may be listed in publicly owned property rolls. Florida’s surplus land statute adopted in 2006 requires local governments to prepare and maintain an inventory of publicly owned properties that are suitable for affordable housing. (see Surplus Lands article) The implementation of this requirement along with NSP land banking has the potential to become a valuable resource for current and future efforts. A comprehensive land banking program with sufficient inventory can be a base for leveraging resources and partners both within and outside of NSP target areas.

The decision to land bank and whether to dismantle it when the initial inventory is exhausted or to build a vibrant long term program around the land bank will require careful consideration. Like any bank account, the rate of return will depend on what is invested and how the deposits are used. Land banking may play a greater role in the future, at first seeded with NSP properties, but expanded over time with other surplus land additions. A well-crafted land bank plan with a detailed inventory can become the centerpiece of housing and neighborhood stabilization efforts.

THE TABLE BELOW LISTS ACTIVITIES THAT WILL TAKE PLACE WHILE PLANNING FOR LAND BANKING AND OPERATING THE LAND BANK ONCE NSP HAS BEEN CLOSED OUT.

PREPARING THE LAND BANK PROGRAM

- DEVELOP AND REFINE LAND BANK PLAN
- DEVELOP AND REFINE LAND BANK INVENTORY
- REVIEW ACQUISITION POLICY- ENSURE PURCHASES MEET GOALS AND MISSION
- DEVELOP INITIAL STABILIZATION PLAN- INCLUDE BOARDING UP, FENCING, SIGNAGE
- DEVELOP MAINTENANCE PLAN- INCLUDE LAWN CARE, TRASH PICKUP, SECURITY
- DEVELOP MAINTENANCE BUDGET- INCLUDE MAINTENANCE COSTS FOR LABOR, MATERIALS AND EQUIPMENT, UTILITIES, INSPECTIONS
- DEVELOP DISPOSITION PLAN AND BUDGET- INCLUDE RE-ZONING, RE-PLATTING, LIEN OR CODE ENFORCEMENT FINES, LEGAL EXPENSES, TRANSFER COSTS, MARKETING, TAXES OR ASSESSMENTS
- DEVELOP MARKETING PLAN

POST NSP CLOSEOUT LAND BANK ACTIVITIES

- MANAGE REDEVELOPMENT PLANS TO PREPARE FOR DISPOSITION (REZONING, RE-PLATTING, SITE PLANNING, PERMITTING)
- DISPOSE OF PROPERTIES ACCORDING TO POLICIES
- REPORT DISPOSITION ACTIVITIES AT LEAST ONCE ANNUALLY TO HUD, IF APPLICABLE
- CONTINUE TO MAINTAIN INVENTORY INFORMATION
- MAINTAIN REGULAR SITE INSPECTIONS
- CONTINUE TO MONITOR SURPLUS LAND INVENTORY OF LOCAL GOVERNMENT AND ASSIST WITH 3-YEAR UPDATE
- CONTINUE TO MARKET PROPERTIES, ADJUST STRATEGIES TO MEET CHANGING MARKET CONDITIONS

NSP LAND BANK PROPERTIES AND MEETING NATIONAL OBJECTIVES

It's impossible to talk about an NSP Land Bank without talking about meeting a national objective. HUD has held many webinars and published guidance on this, but understanding it often requires putting the specific situation to the test to see if the end use of the land banked property will meet a national objective. In order to meet NSP requirements, the end use for NSP-assisted properties must meet one of the following national objectives:

- **HOUSING ACTIVITIES (LMMH):** Providing or improving permanent residential structures that will be occupied by a household whose income is at or below 120% of area median income (or at or below 50% for units that satisfy the 25% Set-aside Requirement).
- **AREA BENEFIT ACTIVITIES (LMMA):** Benefiting all the residents of a primarily residential area in which at least 51% of the residents have incomes at or below 120% of area median income. Most frequently, demolition as part of a comprehensive clearance program is an area benefit. Activities assisting businesses serving a target area, such as providing goods and services in a target area can also be considered an area benefit.
- **LIMITED CLIENTELE ACTIVITIES (LMMC):** Serving a limited clientele whose incomes are at or below 120% of area median income, for example, funding for a homeless shelter or group home.
- **JOBS ACTIVITIES (LMMJ):** Creating or maintaining jobs for persons whose incomes are at or below 120 percent of median income (LMMJ), for example funding for a home-based day care center (NSP1 only). This objective was added through the NSP Closeout Notice.

For HUD Guidance on National Objectives, go to: <https://www.onecpd.info/news/hud-issues-guidance-on-nsp-national-objectives-uses-and-activities/>

Extensive information on the formation and operation of an NSP Land Bank can be found in the HUD Toolkit located at this link: <https://www.onecpd.info/nsp/toolkits/land-banking/>

NEED HELP MAKING THE DECISION TO LAND BANK OR DEVELOPING THE LAND BANK PLAN? The Florida Housing Coalition can provide assistance. Call (850)878-4219 or e-mail Gladys Schneider at schneider@flhousing.org for more information. 

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