The Untapped Potential of Land Bank/Land Trust Partnerships[1]

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Municipal land banks and community land trusts are frequently portrayed as ***competing*** strategies for securing control over abandoned lands and derelict buildings, but I contend they are ***complementary***. Each strategy performs better if developed and operated in partnership with the other. It is shortsighted to say that a municipality should choose between them, therefore, as if these strategies were essentially the same. They have different strengths and different weaknesses (see comparison chart below). More importantly, what a land bank does best is what a land trust does worst – and vice versa. Each has a problem the other can fix.

Municipal land banks (MLBs) are public or quasi-public corporations that are chartered and controlled by a city or county government. The real estate they acquire is typically held for a period of 3-5 years. After removing contaminants and debris, clearing title, and readying sites for redevelopment, a land bank's properties are then conveyed to private owners, usually with few (if any) contractual restrictions on future pricing or long-term use.

Community land trusts (CLTs) are nonprofit corporations, created and controlled by neighborhood residents. Lands acquired by a CLT through gift or purchase are retained by the CLT forever. Any buildings already on the land or later constructed on the land are sold off to other nonprofits, limited partnerships, small businesses, or individual homeowners. The owners of these buildings gain exclusive use of the underlying land through a long-term ground lease. Embedded in the lease are restrictions over the use and resale of all buildings, granting the CLT a durable right to regulate how these buildings are operated, owned, improved, and conveyed.

Land banks have a disposition problem

Most MLBs consider their work to be done once properties have been cycled through the land bank Laundromat and returned to private ownership. What happens to these lands and buildings later on is typically outside of a MLB's purview. Affordability is left to the whim of the marketplace; upkeep is left to the whim of the new owners; occupancy is dependent upon the owners' ongoing ability to meet monthly mortgage payments.

The future use of these properties is usually beyond the MLB's regulatory reach as well. Mixed-income housing or mixed-use development may have been the original plan for a parcel of land released from the MLB's inventory; and the project might actually have been built. Years later, however, if the neighborhood improves and real estate values rise, lower incomes and lower uses are likely to be squeezed out. Few MLBs anticipate a day when their own efforts may have made it impossible for persons of modest means and enterprises of modest revenues to remain on lands that were previously banked. Even fewer MLBs

[1] An edited version of this article – lacking the comparison chart that appears at the end – was published as an online *Rooflines* blog in the October 31, 2012 edition of *Shelterforce Weekly*.

anticipate a day when rampant foreclosures and deferred maintenance may undo many of the gains that were made in turning a neighborhood around, should real estate values collapse. MLBs plan for reuse. They seldom plan for success – or market failure.

Community land trusts do both, casting their eyes much farther down the road. Anticipating dangers that fluctuating real estate markets inevitably pose for low-income people and low-income neighborhoods, CLTs make a long-term commitment to the counter-cyclical stewardship of lands and buildings that have come under their care: preserving affordability; promoting sound maintenance; intervening, if necessary, to prevent foreclosures; and perpetuating the desired mix of incomes and uses in projects developed on their land.

This longer organizational and operational horizon makes a community land trust the perfect complement to a municipal land bank, whose own timeline for holding, managing, and releasing real property is relatively short. The disposition problem that plagues most MLBs, in short, can be cured by partnering with a CLT -- or with some other community-based organization acting *like* a CLT, making a similar commitment to the lasting stewardship of properties that leave a land bank's hands.

Community land trusts have an acquisition problem

This can also cure a chronic affliction that has crippled the growth and development of CLTs. Community land trusts have an acquisition problem. They do a good job of sheltering the lands, homes, gardens, businesses, or facilities that are brought beneath their protective umbrella, but they do a poor job of building that portfolio in the first place. Without access to the sort of monies and powers made available to municipal land banks, most CLTs have remained small. Few have managed to acquire enough lands and buildings to make a transformative impact on the neighborhoods they serve. They have not gone to scale.

Land bank/land trust partnerships would be a game changer. Were community land trusts to become favored recipients of properties released by municipal land banks, the principal impediment to CLT expansion would be removed. With fewer worries about acquiring their next piece of property, moreover, a greater proportion of a CLT's energies and resources could be devoted to what a CLT does best: taking care of its properties, year after year.

I am not alone in suggesting that land banks might productively function as an acquisition mechanism for land trusts. Dan Kildee, founder and former president of the Center for Community Progress, had this to say at a symposium on the partnership potential of land banks and land trusts, held in Philadelphia on October 6, 2011:

> "Imagine the relationship between a land bank and a CLT, when the land bank can say to itself and to the community, our *first* priority for the use of this land is to support the mission of our land trust in trying to achieve its goals. Rather than exposing a property first to public auction, then after the scavengers decide they don't want it and then make it available, we can take any property that comes in and say the first priority for the use of this land is to go to that CLT and see if that

> fits their mission – or we can assemble land for the CLT for its ultimate disposition." [A video of Kildee's talk at the Philadelphia symposium can be found at: http://takebackvacantland.org/?page_id=253]

This is not a pipe dream. There are already cities where a municipal agency or land bank authority has released publicly owned lands to a local CLT for redevelopment as affordable housing. To date, this has only happened on a case-by-case basis, however. Still untried is a more formalized, standardized land bank/land trust relationship, where properties flow regularly and predictably from MLB to CLT, solving the disposition problem of the one and the acquisition problem of the other.

Atlanta may be the place where such a partnership receives its first true test. The City of Atlanta-Fulton County Land Bank Authority and the Atlanta Land Trust Collaborative are presently working together to create a property pipeline for the production and preservation of affordable housing in neighborhoods impacted by the Atlanta Beltline, the largest TOD project in the United States. Development without displacement is their mutual goal, requiring not only the acquisition and remediation of derelict sites, but the long-term stewardship of these properties once they have been readied for reuse. If Atlanta succeeds in putting these pieces in place, utilizing a land bank/land trust partnership to make the dream of an equitable and sustainable Beltline a reality, it will prove to the rest of the country just how powerful these partnerships can be.

Comparison of Complementary Strategies

	Municipal Land Bank	**Community Land Trust**
Program focus	Short-term ownership of vacant and blighted lands; remediation of contaminants, derelict structures, and title defects; and conveyance to private owners for reuse and redevelopment.	Long-term stewardship of lands and buildings after remediation and redevelopment, preserving affordability, promoting sound maintenance, and preventing foreclosure.
Corporate status	Public agency or quasi-public municipal corporation. Acquisition, remediation, and disposition of lands may be an internal program of an existing city department or agency or assigned to a newly chartered special purpose "land bank authority."	Private, not-for-profit corporation. Stewardship of lands and buildings may be an internal program of an existing community development corporation (CDC) or it may be assigned to a newly incorporated "community land trust" (CLT).
Composition and selection of board	Board composed entirely of political appointees. A few seats may be reserved for community reps, but the entire board is typically appointed by the mayor, city council, or county commission.	The "classic" CLT has a tripartite board made up of leaseholders, community representatives, and public representatives, with a majority of seats elected by neighborhood residents.
Land acquisition	Purchase on open market; receipt of "surplus" public property; and receipt of tax-foreclosed property.	Purchase on open market; private land donations; bargain sales; receipt of "surplus" public property from a city agency or land bank authority.

Exemption from property taxes	**Yes**, during those years when a property is held by the land bank.	**No,** but taxes may be lowered by use and resale restrictions on the property.
Duration of land ownership	Title to lands (and any buildings) is typically held for a short period of time: 3-5 years.	Land is held in nonprofit ownership forever. Buildings are sold to private owners with permanent restrictions on use and resale.
Disposition of properties	Lands and buildings are sold to private owners after the land bank has cleared title and completed site remediation. Although often sold for the highest price the market will bear, most land banks have the option of disposing of lands at a discounted price to support community projects.	Buildings are sold to private owners at an affordable price. Title to the underlying land is retained by the CLT. Lands are leased for an affordable fee to owners of buildings, using a ground lease that is long-term, inheritable, and mortgage-able.
Recycling of public investment	***Subsidy recapture***. Subsidies that are invested in acquiring and remediating lands are claimed by the land bank on the sale of the property.	***Subsidy retention***. Subsidies that are invested in acquiring and developing lands are locked into the property, lowering the price for future homebuyers (or other occupants).
Long-term affordability of land & buildings	**No**. Land banks typically impose no lasting affordability restrictions on lands and buildings that are removed from the land bank's inventory and sold on the open market.	**Yes**. The CLT retains an option to repurchase homes (and other buildings) whenever their owners decide to sell, paying a formula-determined price that keeps homes affordable.
Long-term responsibility for buildings & owners	**No**. A public land bank typically imposes no conditions on the upkeep of buildings sold out of the land bank's inventory. Nor does it intervene, should the owners of these buildings later face foreclosure.	**Yes**. A CLT has a durable right (via the ground lease) to require leaseholders to keep their buildings in good repair. A CLT may intervene in cases of mortgage default to prevent foreclosure.