

An Overview of New Jersey's Recently Enacted Land Bank Law

By Thomas J. Denitzio, Jr., Esq.

In July of 2019, New Jersey enacted legislation that authorizes local governments to create land banks, an additional tool to combat the blighting effect caused by vacant and/or abandoned properties, especially in the state's older cities. If fully implemented, a database of vacant and/or abandoned and other problem properties that a municipality wants to have "restored to productive use" will be available to builders and developers. This should make it easier to identify which properties the municipality owns or controls that are vacant and/or abandoned, and where opportunities for assemblage of multiple properties exist. The new law also authorizes municipalities to channel redevelopment efforts through a "land bank entity" that will not be subject to the Local Public Contracts Law or the Local Lands and Buildings Law.

Land Bank Entity

Land bank entities can be "public" (i.e., a redevelopment entity designated by the municipality under the Local Redevelopment and Housing Law, a county improvement authority, or the municipality itself or one of its departments or agencies) or "non-profit" (i.e., a non-profit entity, the bylaws of which provide that the municipality's chief financial officer serves as an ex-officio director).

Land Banking Agreement

Pursuant to a land banking agreement with a municipality, a land bank entity may hold, maintain, lease or convey property owned by the municipality and not needed for any



public purpose. However, the new law recognizes that land banking itself is a public purpose, permitting municipalities to provide tax exempt status to properties held by the land bank entity. Before entering into a land banking agreement, the municipality must hold a public meeting "to solicit the advice of the public on the substance and intent" of the agreement.

Land Bank Property

Property owned by a municipality and not used for any public purpose may be held in trust by the land bank entity, which may lease land bank property for an individual term of up to 99 years. Land bank properties are subject to municipal land use ordinances and any redevelopment plan that is enacted. A municipality may assign tax or other liens to the land bank entity. In addition, if designated by the municipality, the land bank entity may acquire properties on behalf of the municipality (whether or not the property is in a redevelopment area or an area in need of rehabilitation) and may act as the municipality's agent in purchasing tax and other liens, foreclosing such liens, and in abandoned property

takings under the New Jersey Urban Redevelopment Act. However, the use of eminent domain was not expanded beyond that permitted by current law.

Community Advisory Board

The land bank entity must create a community advisory board within six months after it is designated by the municipality. The advisory board will have input into the decisions of the land bank entity. The advisory board must be consulted by the land bank entity in creating a database listing all land bank properties, their purchase price, and each owner of record since each property became a land bank property. The database is to include an interactive mapping component "to allow the public to visualize the impact of land banking and the extent of vacant and abandoned properties within the municipality." Finally, the advisory board must report annually on "the accuracy, integrity, accessibility, and comprehensiveness" of the database.

Land Banking Experience

The experience with land banking in New York, Michigan and Ohio is encouraging. The results of recent studies surveying the economic and social impacts of land banking in those states have been uniformly positive. Land banks were found to have made significant strides in improving and revitalizing distressed neighborhoods. As a direct result of government-sponsored land banks, new investment, property values, employment, incomes and tax revenue have all increased.

Continued on page 11

About the Author: Thomas J. Denitzio, Jr. is co-Chair of the Real Estate Department at Greenbaum, Rowe, Smith & Davis LLP, where he focuses his practice on the sale, acquisition, leasing and mortgage financing of commercial and industrial real estate holdings. Mr. Denitzio also represents clients in commercial property tax appeals, mortgage foreclosures and workouts, tax sale certificate foreclosures and condemnation valuation hearings. He can be reached at tdenitzio@greenbaumlaw.com and (732) 476-2610.

An Overview of New Jersey's Recently Enacted Land Bank Law

Continued from page 3

Conclusion

The new law is an innovative opportunity for the public and private sectors to collaborate in returning vacant and/or abandoned properties to productive use. For builders and developers, the process of identifying potential sites for redevelopment will be far more efficient than at present. As the recent experience in other states has shown, the building community, with the cooperation of a motivated land bank entity, now has another tool to revive neighborhoods that desperately need assistance.

A (Not So) Simple Plan: Latest Changes to Limitations on Subcontracting for Federal Small Business Contractors

Continued from page 6

thresholds. Although addressing the same basic issue, the deviations do not exactly mirror the SBA guidelines, and may not match precisely with the final FAR rule. Any differences could present problems, particularly for long-term contracts.

If you are a small business that has not yet had to deal with these changes, now is the time to review your subcontracting practice to make sure it complies with the new formula. You may find that meeting the new threshold is simple, but if complying presents unexpected issues, consider reaching out to counsel to discuss strategies to ensure that your business model continues to succeed.

Don't Fear the Fill: A Creative Opportunity for Redeveloping a Contaminated Fill Site

Continued from page 7

ordinance. The historic fill is used as often as possible to help create this topographic change and support the more elevated sections of the park. It is a great example of using fill consolidation and encapsulation to not only keep materials on site and comply with regulations, but to introduce desired grade change and unique design features.

By embracing historic fill as a critical design tool rather than fearing it, the Northwest Resiliency Park effectively and efficiently reaches its lofty goals; to leverage a supposedly undevelopable piece of land into the centerpiece of the City's growing and evolving social and physical infrastructure systems.

Ground breaking for the Northwest Resiliency Park took place October 4th.

Brownfield Redevelopment Progress: NJ's Community Collaborative Initiative (CCI)

Continued from page 9

Prospective Purchaser Agreements: Revival of the Prospective Purchaser Agreements (PPA) has generated new interest. Brownfields developers greatly value a PPA for a multitude of reasons. The state offered upfront PPAs before they were discontinued a decade ago, but we believe a PPA clearly defines what developers are obligated to carry out.

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