



CITY OF KINGSTON
INFORMATION REPORT TO COUNCIL

Report No.: 04-259

TO: Bert Meunier, Chief Administrative Officer

FROM: Lance Thurston, Commissioner, Department of Community Services

PREPARED BY: Greg Grange, Manager, Housing Division

DATE OF MEETING: 2004-07-13

SUBJECT: Land banking

RECOMMENDATION TO COMMITTEE OF THE WHOLE:

This is an information report only.

ORIGIN/PURPOSE:

The purpose of this report is intended as a general overview of land banking as a land management tool that will assist future affordable housing development and is intended to outline the steps and components necessary for undertaking the preparation of the municipal land banking policy.

Specific development of land banking policy will be formulated under the approved Focus Kingston Affordable Housing projects for Council consideration upon completion.

OPTIONS/DISCUSSION:

What is land banking?

Land banking refers to the process of public acquisition of undeveloped or underdeveloped land for future development purposes.

Land banks, land banking companies, and land banking authorities are typically set up as separate and distinct entities. These entities are enabled through legislative documents, municipal policies and by-laws to manage lands either by the way of surplus acquisition, transfer, or tax foreclosure for future use and marketing options.

General goals of land banking:

Land banking as a land management tool with a wide spectrum of planning and development applications, has three major goals:

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- (1) Managing urban growth patterns
 - (2) Ensuring land availability for specific uses
 - (3) Capturing capital gains due to increases in land value created by government investments

The first goal is associated with land use control and shaping regional and community growth, ensuring an orderly land development of certain types of public and private uses (open space, residential/ housing), and protecting land with notable environmental attributes.

The second goal is to ensure a supply of land and provide opportunities to retain land for future development in highly competitive real estate markets. This approach allows municipal authorities to acquire land to be reserved for specific purposes, for example for subsidized housing.

The third goal is closely related to the strategic acquisition of undeveloped land and further increase in its value due to services provided.

To a limited extent public land banking is currently applied in many urban centers through the advanced purchase of land for specific public uses such as roads, schools sites and industrial parks.

Historical background

Land banking as a planning control and plan implementation tool is not a new concept in land management. Saskatoon and Edmonton are two municipalities who are frequently cited for their land banking activities in the 1930s. Tax delinquent land was acquired and held as a reserve for future development. As a result, today 80 to 90% of the development is on municipally owned land.

Although the National Housing Act has had provisions for financing land banks since 1954, these provisions were widely used by municipalities until the 1970's. Under section 42 Loan Program for Acquisition of Land for housing approximately 30 loans per year were granted in early 1970s (the program allowed provinces, municipalities and housing authorities to receive 90% federal loans with term up to 50 years for sites to be leased and 25 years for sites to be sold).

One of the first major reports at the national level to recommend large scale public land banks was the Hellyer Report in 1969, prepared by the Task Force on Housing and Urban Development. In 1970, Land Banking was proposed in the CMHC report with respect to new satellite communities. Later, in 1972, land banking was included in the Dennis Report on low income housing.

At the municipal level, land banking for housing purposes has been primarily applied for project specific site development. The former City of Toronto land banking policies were adopted in 1973 under the Living Room Report and the first land banking scheme was applied to residential development at the St. Lawrence site in the downtown area.

In the City of Kingston, land banking was originally recommended in a 1976 housing study and later in the 1990 Municipal Housing Statement but never acted upon. As a tool for affordable housing provision, it was recommended over two decades ago to maintain an inventory of municipal, provincial and federally owned lands and with any land disposal by governmental agencies give the priority to housing in land utilization.

The City of Kingston 1984 housing study noted that senior government subsidy programs for land banking were no longer available, and it was not considered financially feasible for municipalities to undertake land banking on a significant scale on their own. It was recommended that the City maintain and monitor an inventory of municipal, provincial and federal land locally, and that whenever land owned by any level of government was disposed of, it should be considered for housing. As noted in the 1990 Housing Statement, this approach would be worthwhile, particularly in the City where there is a relative shortage of land for affordable housing. The current Urban Growth Strategy examined available lands within the serviced areas and there are fairly substantial areas designated for future residential development. These lands however, are held largely by local developers.

Legislative framework and local policies

The following legislative framework enables municipalities to support major functions of a land bank with respect to land acquisition, holding, transfers, and disposal.

- The Planning Act, 1990

Under s. 25 of the Planning Act, acquisition of lands must comply with provisions of the Official Plan. If there is an official plan with provisions relating to the acquisition of land, the municipality may acquire and hold land within the municipality for the purpose of developing any feature of the official plan, and any land so acquired or held may be sold, leased or otherwise disposed of when no longer required.

For the purpose of land holding, the council of a local municipality may impose a holding provision in a zoning by-law passed under Section 36. The holding symbol may be used for designation of lands, buildings or structures that may be reserved until the holding symbol is removed by amendment to the by-law.

Land banking is directly related to implementing the land use plan and depends on characteristics of the local planning process. The Official Plans for the three former municipalities in Kingston area contain holding provisions in compliance with the Planning Act and identify local policies that were prepared by the three former municipalities within the boundaries of their individual jurisdictions. It is anticipated that a new Official Plan will harmonize the existing land acquisition and land holding provisions under one document and consider recommendations of the Urban Growth Strategy and the Transportation Master Plan.

- The Housing Development Act, 1990

Under s.17 if there is an official plan in effect in a municipality that includes provisions relating to the provision of housing, which provisions have been approved by the Minister subsequent to the coming into force of this section, or if the council of a municipality has adopted a policy statement containing provisions relating to the provision of housing which statement has been approved by the Minister, the council of the municipality may,

- (a) acquire and hold land, with or without buildings thereon, within the municipality for the purpose of a housing project;
 - (b) survey, clear, grade, subdivide, service and otherwise prepare such land for the purpose of the project;
- and

(c) sell, lease or otherwise dispose of such land for a nominal or other consideration for housing purposes.

- The Municipal Act, 2001

Under s. 268 every municipality and local board with authority to sell land, shall pass a by-law establishing procedures, including the giving of notice to the public, governing the sale of land. Before selling any land, every municipality and local board shall pass a by-law or resolution to declare the land to be surplus; obtain at least one appraisal of the fair market value of the land; and give notice to the public of the proposed sale.

As prescribed by s. 268(5) municipality and local board shall establish and maintain a public register listing and describing the land owned or leased by the municipality or local board.

Certain classes of land are excluded from land sales and from the register, including land less than 0.3 m, highways and land formerly used for railway lines.

Part XI of the Municipal Act empowers municipalities to sell land for tax arrears. In February 2004, the City of Kingston endorsed a failed tax sale property policy that allows dealing with properties that have gone through the tax sale process and have not been sold. The policy enabled the City of Kingston to vest lands and dispose the surplus lands through a public sale/public tender process.

- The Social Housing Reform Act, 2000

This new legislative framework has changed the roles and accountability of the municipality in housing provision and housing programs delivery. This Act empowers the City of Kingston as the Service Manager to lead and shape a comprehensive, community-driven housing provision to meet local needs in subsidized housing.

Under section 5 of the SHRA, the City of Kingston has the following powers:

- purchase or acquire a housing project in its service area for the purpose of operating it as a housing project;
- purchase or otherwise acquire land in its service area for the purpose of operating a housing project on it;
- construct a housing project on land that it has acquired in its service area;
- make alterations or additions to a housing project that it has acquired or constructed in its service area;
- operate and maintain a housing project that it has acquired or constructed in its service area;
- sell or otherwise dispose of land and housing projects that it has acquired or constructed in its service area.

Examples of existing land banking programs

Over the years project specific land banking programs, industrial banking and advanced land acquisition for public facilities have proved that land banking can be successful. Land bank authorities often play a key role in the success of redevelopment projects. This approach is widely used in the United States, where municipal authorities acquire privately owned land to be reserved for housing purposes. The land is then leased to non-profit or community housing providers for an extended period, enabling the development of long-term accommodation. For example:

- The City of Cleveland founded a land bank program during its Mid-Town Corridor project with a primary role to manage marketing and development, complete land acquisitions, cover holding costs of vacant parcels, and raise revenues.
- A land bank in Genesee County, Michigan, is envisioned as a legally independent, public, nonprofit corporation created and controlled by its government sponsors.
- The 2003 Texas Urban Land Bank Demonstration Act provides an opportunity for the City of Dallas to address the dual needs of insufficient affordable housing and older neighborhoods at risk through establishing a municipal urban land bank demonstration program.
- In Anchorage, Alaska, a general land bank was established for municipal purposes and benefits, to promote orderly development and to achieve goals of its comprehensive land use and development plan.

In the City of Toronto land banking policies were adopted in 1973 and the St. Lawrence site in the downtown area (former industrial site) was chosen for the City's first land banking scheme. These lands were developed for housing through the cooperation of the federal, provincial and municipal governments, together with the private sector.

Land banking has been adopted in some jurisdictions to retain opportunities for the development of affordable housing in highly competitive real estate markets. Under O. Reg 168/03 made under the Municipal Act 2001, the Regional Municipality of York may incorporate one or more corporations under the Business Corporations Act/or Corporations Act for the purposes of developing sites for and construct, operate and maintain one or more housing projects for residential accommodation on those sites, to sell, lease or otherwise dispose of or encumber all or any part of a site or housing project to support or benefit a system or facility of the corporation for public transportation.

Organizational structure for a land bank

Structural development of a land bank has two basic phases: land inventory and operational procedures for the decision-making process on land acquisition, holding, and disposition.

Project specific land banks are established for specific types of land uses: industrial, housing, public facilities, open space, and urban renewal. Analysis of land banking practices over several decades shows that there are various types of organizational structures: federal, state government, metropolitan, councils of governments and local jurisdictions, public corporations. Determination of the appropriate type of entity for administering a land bank depends on the purposes to be achieved (general land bank, land bank for housing development, redevelopment), scale (regional, municipal, project specific) and the ability of the entity to carry out activities with respect to legal, financial, and planning considerations. Special purpose public corporations are corporate bodies authorized by legislative action to function outside of the regular structure of state or local governments in order to finance, construct, and operate revenue producing enterprise.

Land banking and brownfields

There has been a growing interest among municipalities to find ways to redevelop *brownfield* sites for new uses including residential development. As stated in the City of Kingston Brownfields Project (Report to Council PC039), although the *Brownfields Statute Law Amendment Act* was passed in November 2001, not all of the additional provincial legislation required to implement the proposed changes has been proclaimed yet. It is anticipated that the remaining legislation will be proclaimed in the fall of 2004, and is required for the City to be able to offer a full Brownfields program with respect to financial waivers, environmental registration systems, and appropriate environmental standards.

Currently in the United States, the Louisville/Jefferson County Landbank of Kentucky has specifically been initiated to address the issues accompanying brownfield properties and thus ensure that all such lands are properly handled and prepared for development.

Land Banks by Governmental level

Governmental level	Primary purpose	Land Bank Type	Policy Framework
Federal	Oversee federal lands, possible involvement in project specific land bank	General land holding	NHA
Provincial	Environmental protection, large scale public facilities	Provincial land holding Area and Project Specific	PPS, NHA, s.79 Joint projects with provinces, municipalities and public housing agencies
Regional	Growth control, land price, capital gains, land use, new facilities	Project specific	
Local	Advanced land acquisition, public facilities, Low-moderate income housing Industrial Urban renewal	Project specific	Local Planning Under the Official plans. NHA, s.80 Loans to provinces, municipalities and public housing agencies

Land Banking in Western Europe

Being associated with rapid urban growth, land banking in the Netherlands started in 1896 in Amsterdam. It has been seen as a means of promoting the public interest in adequate housing and decent living environment. In 1971 approximately 83% of land offered for development was acquired from municipal land development enterprises; of these lands approximately 31% was leased rather than sold to private interests. Land banking is largely the responsibility of land development enterprises which exist in the majority of municipalities, including 115 out of 118 municipalities with population of at least 20,000 people. Of the total stock of municipal land 50% is ready for development and 59% is in preparation.

Stockholm is renowned for its land bank program, started in 1904. It was one of the first Swedish municipalities to begin buying land for a land bank and continues to be one of the most active cities in responding to and managing urban growth.

In France, land banking was not initiated until 1958. It started at the national level to respond to the government's commitment to a higher rate of housing construction. The land banking program did not advance in terms of control of land acquisition or widespread realization of land use planning objectives due to the lack of political and financial commitment.

Financial implications

Land banking practice indicates numerous challenges associated with the financing of large scale land operations. The most common concerns are related to:

- availability of sufficient funds during the initial start-up phase
- need to balance objectives and financial resources
- need for large scale funding resource.

One of the options to finance a land bank is governmental funds in the form of grants or loans. Under the National Housing Act, section 80 (1) Canada Mortgage and Housing Corporation may make loans and contributions to a province, municipality or public housing agency for the purpose of assisting that province, municipality or agency to acquire or service land for housing purposes or for any incidental purpose and make loans to refinance debt that the Corporation is of the opinion relates to the acquisition or servicing of land for those purposes, and may forgive amounts owing on those loans.

In addition, potential sources of revenue may be counted on:

- transfer fees on real estate transactions
- allocation of capital gains taxes in connection with land transactions
- allocation of incremental increases in property taxes resulting from increased assessments in land values.

Next steps:

Further planning and implementation steps in developing a local land banking program for affordable housing will include three major components: consultation, policy development, and formalization of the land banking policy:

Phase I Report to City Council- fall 2004:

- Define local role and functions of the land bank for affordable housing development
- Analyze local federal, provincial, and municipal land resources
- Consider the use of private not-for profit land trusts to assist with land banking and development
- Clarify the use of all or part of some of the browfields sites under consideration for redevelopment that may be mandated for affordable housing development
- Define land banking policy framework
- Define organizational structure of the land banking authority.

Phase II Proposed Land Banking By-Law - 2005:

- Land banking authority
- Procedural provisions.

This work is being undertaken as part of the Affordable Housing strategic initiative under FOCUS Kingston.

EXISTING POLICY/BY-LAW:

Failed Tax Sale Properties Policy

LINK TO STRATEGIC PLAN:

Kingston Community Strategic Plan identified the need to develop affordable housing strategy and find the solutions to accommodate housing needs of the community specifically targeted to youth, seniors, persons with special needs and low income families.

FINANCIAL CONSIDERATIONS:

No financial implications are to be considered in this report.

CONTACTS:

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DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:

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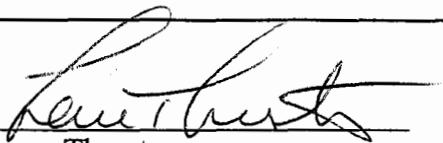
*Comments received have been incorporated and/or revised in the report.

NOTICE PROVISIONS:

There are no existing notice requirements under the Municipal Act concerning this subject, on record, to date.

APPENDICES:

N/A



Lance Thurston,
Commissioner, Department of Community Services



Bert Meunier
Chief Administrative Officer

Comments from County of Frontenac staff

At the Joint Management meeting of _____, the following comments were made by County of Frontenac staff:

(There were no notable comments made by County of Frontenac staff at the JM meeting)

Report No.: 04 – 259 - Landbanking

Comments from RULAC

At the RULAC meeting of -----, the following comments were made by County of Frontenac representatives:

(There were no notable comments made by County of Frontenac staff at the RULAC meeting)

Report No.: 04-259 - Landbanking

Comments from County of Frontenac staff

Report No.: 04-259 Land Banking

The JM meeting of June 30, 2004 was cancelled and communications were conveyed via email as follows:

1. Landbanking - Generally we are concerned that Frontenac does not fully understand the implications for the County and do not believe that these are outlined adequately in the document. For that reason we would prefer that this report be held until a more comprehensive discussion can be held.

At a minimum some of our questions are

A) Would the carrying costs of the landbank be allocated to Social Housing?

B) How would the County of Frontenac be involved in the process?

Under the Social Housing Reform Act 2000 the City of Kingston can acquire land in its service area for the purpose of operating a housing project on it. How would the City address the requirements of the Township and County Ops and Zoning requirements?

2. Benchmarking - As Susan Beckel has indicated that the Social Housing Providers would like to be involved in the process, perhaps the staff recommendation to the Committee of the Whole should include a reference to involving the housing providers in the review process.

3. Rent Supplement Program - 100% federal funding sounds great and having Central Frontenac Community Services continued involvement would ensure that residents of the County have access to the funds. 4. OW Pay Direct. After reading the report, the recommendations seem appropriate to Frontenac staff.

Response from Lance Thurston

1. Landbanking is an information report of a general nature that was requested by City Council. It is not intended to speak to or answer specific questions of financing models and possible County involvement or contribution. Staff will review your concerns and be prepared to speak to them at RULAC. Modifications to the report can occur at that time as this winds its way to Council for information.

2. Benchmarking Report was withdrawn as the Province has released the benchmarks. A further staff report will be prepared in due course to inform about the benchmarks and the implications.

Comments from RULAC

Report No.: 04-259 Land Banking

The RULAC meeting July 12, 2004 was cancelled and communications were conveyed via email as follows:

- *(There were no notable comments made by County of Frontenac staff)*