



**KENT COUNTY LAND BANK AUTHORITY REVIEW
DECEMBER 2018**

Overview

On July 26, 2018, Dave Allen, Executive Director of the Kent County Land Bank Authority (KCLBA) presented an update about the KCLBA to the Board of Commissioners. Mr. Allen provided background information and data to support the success of the Land Bank, including the economic benefit from the work performed by the KCLBA, based on a study from Michigan State University. Michigan State reported there is \$1.77 in regional economic activity for every \$1 spent by the KCLBA.

Several commissioners expressed concerns about the work being conducted by the KCLBA. Among the concerns noted is its efforts outside of Kent County and whether the KCLBA is competing with private industry through its relationship with Champion Homes and modular home initiative. Additionally, there were questions raised about whether the KCLBA's initial objectives had been met, and if a land bank was still necessary considering the improved real estate market since 2011. The purpose of this report is to provide additional research and responses to questions posed by commissioners.

The Kent County Land Bank Authority was created on November 19, 2009 (Resolution #11-19-09-136) through an intergovernmental agreement (IGA) between the Michigan Land Bank Fast Track Authority and the Kent County Treasurer. The KCLBA was legally established on September 8, 2010 and began operations on January 1, 2011.

Broadly speaking, the goals of the KCLBA are to efficiently acquire, hold, manage, spur economic development and/or sell tax-foreclosed and other properties in Kent County. Additionally, Public Act 258 of 2003 speaks to the promotion of economic growth in counties with land banks, through the acquisition, assembly, and disposal of tax-reverted property in a coordinated manner that fosters development, eliminates blight, and returns property to taxable status in an efficient manner.

In 2016, the Kent County Board of Commissioners appointed a subcommittee of Commissioners Mandy Bolter (Chair), David Bulkowski, Matt Kallman, Roger Morgan and Ted Vonk to review the KCLBA, with the following charge:

- Review the accomplishments of the Kent County Land Bank Authority since it began operations in 2011.
- Review the status and operations of the Kent County Land Bank.
- Determine whether the goals and purposes in creating the Kent County Land Bank were still valid and relevant.
- Determine if any changes in operations were warranted.

Upon completion of its review, the 2016 Land Bank Subcommittee provided several recommendations, which are set forth verbatim below.

1. **Increase Transparency.** The KCLBA should continue to take steps to become more transparent in its operations, including making available on its website and in an annual report to the Board of Commissioners its policies for soliciting and awarding contracts, the number of parcels it has acquired and sold, the sources and amounts of its revenues, and its uses. Tax revenues received pursuant to Public Act 260 of 2003 (also known as 5/50 revenue) should be reported by taxing entity and made publicly available annually, as well.
2. **Mission Creep.** The KCLBA should avoid expanding its mission in an attempt to address other areas that impact home ownership and housing affordability. Focus should remain on the central mission under which the KCLBA has operated since its inception, including addressing blighted and significantly distressed properties.
3. **Property Conveyance.** As the housing market continues to improve, the KCLBA should not accept any properties from local units of government unless the property has first been made available at a public auction within the prior three years, unless there is return to the 2009-2010 rate of tax foreclosure activity or unless there are special circumstances requested for consideration by the local unit.
4. **Lead Remediation.** The KCLBA should follow the recommendations of the Lead Task Force regarding renovation and/or transfer of properties. The Lead Task Force is expected to release its recommendations in late 2017.
5. **Continue Private-Public Partnerships.** The KCLBA should continue to use private sector realtors, developers, and construction trades in redeveloping properties and not duplicate trades and services already occurring in the private sector. Additionally, the KCLBA should continue to work with nonprofits, State and local granting agencies, and other relevant parties to address blighted and environmentally sensitive properties.
6. **Strategic Planning.** The KCLBA should re-engage its stakeholders and the community to complete its strategic planning process and identify and implement policies to increase access to tax foreclosed properties by the private sector.
7. **Legislative Priority.** The Subcommittee recommends that the Legislative and Human Resources Standing Committee consider making the funding structure of land banks a subject of a future Legislative Priority. Specifically, the Subcommittee recommends that the County request the State Legislature remove the mandate that land bank authorities receive the full 5/50 tax revenue without the ability to return it to the taxing jurisdiction and require that any specially voted millages (including school millages) remain with the taxing jurisdiction.
8. **Future Review:** The Board of Commissioners should review the continued need for the KCLBA in three years (2020).

2018 Review of Kent County Land Bank Authority

This fall, staff from the Administrator's office conducted a review to determine if the Subcommittee's recommendations were being implemented. This included interviews of a subset of KCLBA Advisory Council members, KCLBA Board Members, several community stakeholders, and KCLBA Executive Director to solicit feedback on the KCLBA and its operations.

STAKEHOLDER INPUT

The following is a summary of what was shared by KCLBA's stakeholders:

- **Scheduling Issues:**
 - Advisory Council meetings are not held consistently
 - There is no advance calendar planning
 - Meetings are scheduled and cancelled at the last minute
 - The last meeting was in May 2018
 - There were two Advisory Council meetings held in 2016 and two meetings held in 2017, and to date, one in 2018. At the time this report was released, an Advisory Council meeting was scheduled for December 13, 2018.

- **Communication Issues:**
 - Frustrations were reported about receiving minimal, sporadic and incomplete communication from the Executive Director about what is happening at the KCLBA.
 - Improve transparency with community stakeholders and annually presenting to area municipalities about the work it is doing in their communities would be welcomed.
 - Purposeful, proactive communication is needed to provide a structure for the agency and improve connections to the community at large.
 - There is not a robust, consistent public relations strategy and this exacerbates the issue of poor public perception of the KCLBA and its work.
 - There are concerns about the Executive Director's communication and personal interaction style.¹

- **Consultation:** Advisory Council members believe they should be consulted for their input and opinions in advance of decision-making. The name change/rebranding to InnovalaB seemed like a foregone conclusion prior to involvement and consultation by the Advisory Council members; as if the decision to rebrand was made by leadership staff prior to the strategic planning process.

¹ Concerns regarding the Executive Director's interaction style previously were detailed in the KCLBA 2013 Strategic Plan, in the weakness section, which noted that the style was, "...flagged as potentially a problem where passion and knowledge could be misinterpreted as condescension or impatience." (*KCLBA Strategic Plan 6/28/13, page 19*)

- **Core Mission:**
 - The KCLBA purpose statement should clearly identify its core missions, with a defined plan on how they will avoid mission creep or midstream changes in focus.
 - The KCLBA should focus on addressing the recommendations made in the 2016 Land Bank Review Subcommittee Report.
 - The KCLBA needs to determine whether the relationship with Champion Homes to build InnovaHomes is appropriate, or whether it is an effort to remain relevant in an era with lower foreclosure rates.

- **Out of County Work:** The KCLBA's work outside of Kent County appears to take the its focus off Kent County. It was mentioned that referring other counties seeking land bank services to the Michigan Land Bank is more of an appropriate option than the KCLBA working beyond Kent County.

- **External Support:** It is recognized that the KCLBA is viewed by the Michigan Land Bank and other communities in the Midwest as a model for how a land banks can evolve from focusing exclusively on elimination of blight and clearing titles to impacting the work of non-profits and others to create opportunities for affordable housing.

There were also concerns voiced about the tax revenue associated with parcels handled by the KCLBA, and how it reduces tax revenue to local government. The land bank enabling legislation created what is commonly known as the 5/50 rule. This law states that a land bank authority will capture 50% of all tax revenue associated with any property it disposes of for a period of five years after the completion of the sale. This capture includes 50% of all operating and dedicated mileages within the municipality where the property is located. This revenue is designed to off-set the costs associated with the redevelopment of the property and the authority's facilitation of the property back to productive use. The 5/50 revenue is not discretionary, meaning that any land bank authority located in Michigan is bound by State law to capture that revenue and utilize it for land bank operations. Some argue that the 5/50 funding mechanism reduces local government resources during this five-year window and the improved property value will not make up the difference in future years. Last, there were comments about whether the KCLBA has achieved its purpose, and whether there is need for a land bank at this time.

KENT COUNTY FORECLOSURE INFORMATION

Staff reviewed the number of tax reverted foreclosures dating back to 2005 to determine if there is enough work to maintain the existing KCLBA infrastructure. The following chart shows the County's tax foreclosure activity is returning to pre-Great Recession foreclosure rates, but still has not met the 2005 – 2007 average of 36 units per year. In the most recent three-year average, there is an average of 69 tax foreclosed units per year; almost double the 2005 – 2007 average.

<u>Auction Year</u> <u>Tax Year</u>	<u>2005</u> <u>2002</u>	<u>2006</u> <u>2003</u>	<u>2007</u> <u>2004</u>	<u>2008</u> <u>2005</u>	<u>2009</u> <u>2006</u>	<u>2010</u> <u>2007</u>	<u>2011</u> <u>2008</u>	<u>2012</u> <u>2009</u>	<u>2013</u> <u>2010</u>	<u>2014</u> <u>2011</u>	<u>2015</u> <u>2012</u>	<u>2016</u> <u>2013</u>	<u>2017</u> <u>2014</u>	<u>2018</u> <u>2015</u>
PURCHASED BY LOCAL	16	6	7	8	13	14	17	3	209	136	107	55	37	32
PURCHASED BY COUNTY	0	0	0	2	1	0	0	0	0	0	0	0	0	0
PURCHASED BY LB						0	9	24	0	0	0	0	0	0
PURCHASED NON-PROFIT									0	0	19	0	0	0
SOLD AT AUCTION	29	22	28	48	83									
SOLD AT JUL/AUG AUCTION - 1st						81	114	159	43	38	29	15	23	
SOLD AT SEPT/OCT AUCTION - 2nd						51	85	93	19	22	14	6	9	
TRANSFERRED TO LOCAL					1	0	0	0	0	0	1	2	1	
LEFT OVERS	0	0	0	0	2	4	4	11	5	8	6	0	1	
FINANCIAL HARDSHIPS				16	26	30	26	146	269	231	129	162	135	149
AUCTION TOTALS (gross)	159,99 2	405,422	355,283	316,437	746,638	1,354,304	1,793,379	2,425,635	2,390,142	2,468,281	1,526,388	786,511	1,067,559	661,810
FORECLOSED AMT (DQ taxes)	102,44 1	361,646	111,150	145,975	516,821	856,903	1,653,191	1,944,942	1,711,286	1,924,109	1,487,196	565,990	378,698	297,948
OVER / UNDER	57,550	43,777	244,132	170,462	229,818	497,401	140,188	480,693	678,856	544,172	39,191	220,521	688,861	363,862

KCLBA MISSION, VISION AND VALUES

Administrator's Office staff also reviewed the Mission, Vision and Values of the KCLBA since the KCLBA inception.

The following statements were adopted by the KCLBA during its **2013 strategic planning process**:

- **Mission:** To quickly return property to productive use.
- **Vision:** The KCLBA partners with local governments, community groups, and private sector redevelopers by offering the unique tools available to land banks to achieve the optimal outcome in real estate and economic development processes.
- **Values:** The KCLBA shares with its partners the long-term goals of eliminating blight, increasing property values, preserving neighborhood character, and promoting economic development.

The following statements were adopted by the KCLBA during its **2018-2021 strategic planning process** (this was after the 2016 Land Bank Review Subcommittee recommendations, which was released in 2017):

- **Mission:** The Kent County Land Bank Authority is a real estate development partner that offers an innovative toolbox for community transformation.
- **Vision:** KCLBA offers unique redevelopment tools to local government, communities, and developers in transformative partnerships that further economic revitalization in Kent County.
- **Values:** KCLBA is transparent, accountable and positive in offering its toolbox for strategic use by local units of government and non-profit and private developers, enabling re-use of property for high impact regarding tax revenue, housing supply, and neighborhood character and local economy.

The KCLBA mission, vision and values changed significantly in the 2018 strategic planning process, while ignoring the Land Bank Review Subcommittee recommendations. The following timeline reiterates this point:

KCLBA Legally Established	September 2010
KCLBA begins operations	January 2011
KCLBA priorities and policies adopted by its board	January 2011
BoC Land Bank Process Subcommittee established	July 2012
Land Bank Process Subcommittee Report Released	March 2013
Land Bank Review BoC Subcommittee established	May 2016
BoC Land Bank Review Subcommittee Report/Recommendations Released	May 2017
KCLBA Adopts its 2018 Strategic Plan	February 2018
KCLBA Changes name to InnoVaLaB	February 2018

Conclusion

There are no mechanisms that provide the County Board the ability to mandate its recommendations be followed by the KCLBA. The County Board can pass a resolution that requires the Kent County Treasurer to withdraw from the Intergovernmental Agreement (IGA). Such a resolution would trigger a six-month notice period. Once the IGA is terminated, the KCLBA would conclude its operation and settle its obligations. The IGA states that the disposition of remaining assets, including properties then owned by the KCLBA, are subject to agreement between the Treasurer and the State Authority. However, the Articles of Incorporation (Aol) filed with the State (*see Article V*), specify that assets go to Kent County or to local units if there are interlocal agreements that require such distribution.

After the KCLBA operations have been concluded, the County has the option to create a new land bank authority for Kent County with restrictions on certain activities. There are practical concerns one must consider since a new IGA would be between the County Treasurer and the State Land Bank Authority per statute. And there is not a certainty that the State Land Bank Authority or County Treasurer would agree to a new IGA with more limitations than permitted in statute. However, creating a new land bank authority would address the current concerns in that (a) it could happen if and when economic conditions return that raise issues about blight and/or the need for economic development as existed in 2011; and (b) restrictions that did not exist with the original land bank could be included in the structure of the new land bank to avoid the problems and concerns that currently exist.

<p align="center">2016 Land Bank Review Subcommittee Recommendations</p>	<p align="center"><i>December 2018 Status</i></p>
<p>1. Increase Transparency. The KCLBA should continue to take steps to become more transparent in its operations, including making available on its website and in an annual report to the Board of Commissioners its policies for soliciting and awarding contracts, the number of parcels it has acquired and sold, the sources and amounts of its revenues, and its uses. Tax revenues received pursuant to Public Act 260 of 2003 (also known as 5/50 revenue) should be reported by taxing entity and made publicly available annually, as well.</p>	<p><i>Concerns regarding transparency and open communication still exist. KCLBA purchasing policies are not on the website as requested. Likewise, while its financial statements are identified, the sources and revenues are not clearly articulated. As an example, the 5/50 revenues are not identified per jurisdiction. Grants are not delineated, etc.</i></p>
<p>2. Mission Creep. The KCLBA should avoid expanding its mission to address other areas that impact home ownership and housing affordability. Focus should remain on the central mission under which the KCLBA has operated since its inception, including addressing blighted and significantly distressed properties.</p>	<p><i>Concerns regarding “mission creep” have been validated as exemplified by a name change/rebranding to InnoVaLaB, eliminating all references to Kent County, entering into a contract with Champion Homes to build ‘InnoVaHomes’ statewide and by performing Land Bank consultation services to other counties, including, Newaygo, Ottawa and Muskegon. Revenue from 5/50 funds are seemingly co-mingled with fees to conduct this work.</i></p>
<p>3. Property Conveyance. As the housing market continues to improve, the KCLBA should not accept any properties from local units of government unless the property has first been made available at a public auction within the prior three years, unless there is return to the 2009-2010 rate of tax foreclosure activity or unless there are special circumstances requested for consideration by the local unit.</p>	<p><i>Recommendation implemented with one significant variation. The KCLBA has worked with Grand Rapids to convey properties to KCLBA to clear titles and then return properties to Grand Rapids for sale to non-profit developers. The KCLBA did not solicit properties in 2018 from any other jurisdiction as it had in previous years.</i></p>
<p>4. Lead Remediation. The KCLBA should follow the recommendations of the Lead Task Force regarding renovation and/or transfer of properties. The Lead Task Force is expected to release its recommendations in late 2017.</p>	<p><i>Due in part to the timing of the release of the Lead Task Force recommendations, there has not been much work done in this area. However, minutes from KCLBA Board Meetings reflect they remain focused on having a positive impact on remediation of lead tainted properties in the community.</i></p>

<p>5. Continue Private-Public Partnerships. The KCLBA should continue to use private sector realtors, developers, and construction trades in redeveloping properties and not duplicate trades and services already occurring in the private sector. Additionally, the KCLBA should continue to work with nonprofits, State and local granting agencies, and other relevant parties to address blighted and environmentally sensitive properties.</p>	<p><i>In process. The KCLBA utilizes private contractors to conduct its work rather than hiring staff directly. It also has specific guidelines in its agreement with the City of Grand Rapids that requires it to work extensively with nonprofits to develop properties. The agreement states in part, "In its partnership with the KCLBA, and in recognition of the value provided to the community by non-profit housing development corporations, it is the intent of the Policy that the KCLBA will provide an opportunity for non-profit housing corporations to identify property or properties from the foreclosed properties list that said non-profit housing corporations wish to acquire." Their partnership with Champion Homes to build InnovaHomes may conflict with the part of the recommendation related to "not duplicating trades and services already occurring in the private sector."</i></p>
<p>6. Strategic Planning. The KCLBA should re-engage its stakeholders and the community to complete its strategic planning process and identify and implement policies to increase access to tax foreclosed properties by the private sector.</p>	<p><i>A strategic plan was conducted. Yet significant concerns exist regarding the KCLBA's relationships and level of engagement with community stakeholders, local municipalities and the Board of Commissioners. One result of the strategic planning process resulted in a name change to InnovaLaB which omits the mention of a relationship with Kent County. There continues to be a lack of a regular communication methodology and/or communication plan. KCLBA staff shared they intend to hire a communications firm to assist with this.</i></p>
<p>7. Legislative Priority. The Subcommittee recommends that the Legislative and Human Resources Standing Committee consider making the funding structure of land banks a subject of a future Legislative Priority. Specifically, the Subcommittee recommends that the County request the State Legislature remove the mandate that land bank authorities receive the full 5/50 tax revenue without the ability to return it to the taxing jurisdiction and require that any specially voted millages (including school millages) remain with the taxing jurisdiction.</p>	<p><i>The funding structure of the KCLBA has not been identified by the Legislative and Human Resources Standing Committee as the subject of a Legislative Priority.</i></p>
<p>8. Future Review: The Board of Commissioners should review the continued need for the KCLBA in three years (2020).</p>	<p><i>In process, due to concerns that have continued to manifest prior to 2020.</i></p>

