

ORDINANCE #ORD-10-2013

AN ORDINANCE TO CREATE THE WESTMORELAND COUNTY LAND BANK

WHEREAS, This Ordinance is enacted in accordance with the provisions of Act 153 of 2012, enacted by the PA General Assembly and signed into law by the Governor on October 24, 2012, 68 Pa.C.S. §2101 et seq., and

WHEREAS, The Westmoreland County Land Bank, hereinafter the "Land Bank", shall possess all powers and duties permitted to it under state law, except where expressly limited in this Ordinance, and

WHEREAS, The Board of Commissioners of the County of Westmoreland finds and declares that there is a need for a land bank to function within the territorial limits of the County of Westmoreland, within the Commonwealth of Pennsylvania, and

WHEREAS, The mission of the Land Bank is to deter blight and to return vacant property to productive status using a unified, predictable, and transparent process, thereby revitalizing neighborhoods and strengthening the County's tax base.

§1. Creation and Purpose

1.1. The purpose of this Ordinance is to create the Westmoreland County Land Bank that will use available resources to facilitate the return of vacant, blighted, abandoned and tax-delinquent properties to productive use, thereby combating community deterioration, creating economic growth and stabilizing the housing and job market.

1.2. The Land Bank will acquire, hold, and transfer interest in real property throughout Westmoreland County as approved by the Board of Directors for the following purposes: to deter the spread of blight; to promote redevelopment and reuse of vacant, abandoned, and tax-delinquent properties; to support targeted efforts to stabilize neighborhoods; to stimulate residential, commercial and industrial development; all in ways that are consistent with goals and priorities established by this Ordinance, local government partners and other community stakeholders.

1.3. The County of Westmoreland and the Redevelopment Authority of the County of Westmoreland shall identify all surplus vacant property owned by these entities and property these entities wish the Land Bank to acquire.

§2. Definitions

2.1. The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Municipal Tax – Any real property tax imposed and billed by the Municipal, School District and County governments.

Owner-occupant – A natural person with a legal or equitable ownership interest in property which was the primary residence of the person for at least three consecutive months at any point in the year preceding the date of initial delinquency.

Real property – Land and all structures and fixtures thereon and all estates and interests in land, including easements, covenants and leaseholders.

Financial institution – A bank, savings associations, operating subsidiary of a bank or savings association, credit union, or an association licensed to originate mortgage loans or an assignee of a mortgage or note originated by such an institution.

Land Bank – A public body and a body corporate and politic established under the Act of October 24, 2012, P.L. 1239, No. 153 (68 Pa. C.S. §§2101, et seq.) and this Ordinance.

§3. Board of Directors

3.1. All personnel, facilities, equipment and supplies within the Land Bank shall be governed by a Board of Directors as provided herein.

3.2. **Number of Board Members:** The Land Bank shall be governed by a Board of Directors comprised of seven (7) members. The Board of Directors of the Land Bank shall not have authority to modify the size of the Board under any provision of the Bylaws of the Land Bank.

3.3 **Initial Board Members:** The initial members of the Board of Directors of the Westmoreland County Land Bank shall be the five (5) members of the Board of Directors of the Redevelopment Authority of the County of Westmoreland (hereinafter the "RACW") serving on the date of creation of the Westmoreland County Land Bank, and two (2) additional members who shall be appointed by the Board of Commissioners of the County of Westmoreland. Each initial Board member who is a member of the Board of Directors of the RACW shall serve on the Board of Directors of the Westmoreland County Land Bank for the same term as his or her term on the RACW. The names of the initial Land Bank Board members and length of terms which they will serve are as follows:

Dale Rolla (RACW Board) for a term ending August 1, 2014
Donald L. Kinosz (RACW Board) for a term ending August 1, 2015
Mary Catherine Motchar (RACW Board) for a term ending August 1, 2016
David Johnston (RACW Board) for a term ending August 1, 2017
David K. Dernar (RACW Board) for a term ending August 1, 2018
Scott Avolio for a term ending December 31, 2017
James Watson, Sr. for a term ending December 31, 2018

3.4 Appointments: The Westmoreland County Board of Commissioners shall appoint the seven (7) members of the Board of Directors, at least one of whom: (1) shall be a resident of Westmoreland County, and (2) shall not be a public official or municipal employee, and (3) shall maintain a membership with a recognized civic organization in Westmoreland County. The members appointed to the Board of Directors of the Redevelopment Authority of the County of Westmoreland shall serve as five (5) of the members of Board of the Westmoreland County Land Bank.

3.5 Term of Board Members: After expiration of the terms of the initial board members, the term of office for appointed members of the Board of Directors of the Westmoreland County Land Bank shall be five (5) years. The members of the Board of Directors of the RACW shall also serve on the Westmoreland County Land Bank Board for so long as they serve on the Board of Directors of the RACW. Each newly appointed member of Board of Directors of the RACW shall automatically and concurrently become a member of the Board of Directors of the Westmoreland County Land Bank for a term that shall be the same as his or her term on the RACW.

3.6 Service After Expiration of Term: Members of the Board of Directors shall continue to serve until their successors have been appointed and qualified.

3.7 Compensation and Expenses: Members of the Board of Directors shall serve without compensation and may seek reimbursement for expenses associated with the duties relating to Land Bank activities.

3.8 Ethical Standards: Members of the Board of the Land Bank and its employees shall be subject to the Act of July 19, 1957 (P.L. 101), No. 451, known as the State Adverse Interest Act and the ethical standards and disclosure requirements of 65 Pa.C.S. Chapter 11 and any other supplemental rules and guidelines adopted by the Board of the Land Bank.

3.9 Officers: The Land Bank Board members shall annually elect officers to serve as Chair, Vice Chair, Secretary and Treasurer, each officer to serve a one (1) year term. Members may be re-elected to serve successive terms. The duties of officers shall be established by the Board according to law.

3.10 Vacancies: Any vacancy in the Board of Directors of the Land Bank shall be filled for the balance of the unexpired term by appointment by the Westmoreland County Board of Commissioners. Any vacancy in a membership of the Land Bank Board serving by virtue of appointment to the RACW Board shall be filled by the person appointed by the Westmoreland County Board of Commissioners to fill the corresponding vacancy on the Board of the RACW.

3.11 Meetings of the Board: The Land Bank shall hold regular public meetings monthly, and shall allow for public comment on matters under deliberation at each such public meeting. The place, date and time of the Land Bank meetings shall be determined

at the discretion of the Board of Directors. All meetings of the Board of Directors shall comply with the Pennsylvania Sunshine Act. The Chair of the Board may call special meetings by written notice delivered at least twenty-four (24) hours in advance to each Board member and advertised in accordance with the Pennsylvania Sunshine Act. Special meetings may also be called upon written notice signed by a majority of the Board members and delivered at least twenty-four (24) hours in advance to each Board member and advertised in accordance with the Pennsylvania Sunshine Act.

3.12 **Quorum:** A quorum shall be necessary for the transaction of any business by the Board of Directors. A majority of the Members of the Board of Directors, excluding vacancies on the Board, shall constitute a quorum. The Board of Directors shall act by a majority vote of the Members at a meeting at which a quorum is present, except as otherwise provided in this Ordinance. No voting by proxy shall be permitted.

3.13 **Minutes:** Minutes of all meetings of the Board of Directors and its Committees shall be made and maintained.

3.14 **Committees:** The Board of Directors may establish such committees as may be needed to assist the Board in conducting the business of the Land Bank. Committee members shall be appointed by the Chair, and each Committee shall include at least one member of the Board of Directors. Any business proposed by a Committee shall require approval by the Board of Directors.

3.15 **Fiduciary Duty:** The Members of Board of Directors of the Land Bank are under a fiduciary duty to conduct the activities and affairs of the Land Bank in the best interests of the residents of the County of Westmoreland, including the safekeeping and use of all Land Bank monies and assets. The Board of Directors shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

§4. Land Bank Powers

4.1 The Land Bank shall have the following powers and duties:

- a. To develop stewardship and management plans for each acquired interest not inconsistent with or detrimental to the purpose/rationale which justifies its acquisition; and
- b. To supervise the management of the property interests acquired; and
- c. To develop annual reports of Land Bank activity; and
- d. To conduct real property appraisals; and
- e. To negotiate real property purchases or trades; and

- f. To provide for a system of accounting; and
- g. To adopt, amend and/or repeal policies and procedures for contracting and procurement; and
- h. To borrow money from private lenders, from cities or counties, from the state or from the federal government funds to further or carry out the Land Bank's public purpose by executing leases, trust indentures, trust agreements, agreements for the sale notes, loan agreements, mortgages, deeds to secure debt, trust deeds, security agreements, assignments, and such other agreements or instruments as may be necessary or desirable, in the judgment of the Land Bank, to evidence and to provide security for such borrowing; and
- i. To make application directly or indirectly to any federal, state, county, or municipal government or agency or to any other source, whether public or private, for loans, grants, gifts, guarantees, labor, or other aid or financial assistance in furtherance of the Land Bank's public purpose and to accept and use the same upon such terms and conditions as are prescribed by such federal, state, county or municipal government or agency or other source; and
- j. The County hereby assents to real estate tax payment allocation to the Land Bank for properties returned to the tax rolls after Land Bank ownership with regard to County real estate taxes to the extent allowed by state law and the Land Bank is authorized to seek allocation of real estate taxes on return of land to the tax rolls after Land Bank ownership by agreement with other applicable taxing authorities; and
- k. All other powers and duties provided for, authorized or allocated under Act 153 of 2012, 68 Pa.C.S.A. at Section 2107.

§5. Land Bank Staff

5.1 Employees: The Land Bank may employ or enter into a contract for an executive director, counsel and legal staff, technical experts and other individuals, and may determine the qualifications and fix the compensation and benefits of those employees. The Land Bank may arrange for any such staff in conjunction with the Redevelopment Authority of the County of Westmoreland or other partnering public entities.

5.2 Municipal Contracts for Services: The Land Bank may enter into a contract or memorandum of understanding or intergovernmental cooperation agreement with a municipality for:

- a. The municipality to provide staffing services to the Land Bank; or

- b. The Land Bank to provide staffing services to the municipality.

§6. Acquisition of Property

6.1 The Land Bank is authorized to acquire real property or interests in real property through donation, gift, purchase, or any other legal means, including tax sale or judicial sale or by transfer from the Tax Claim Bureau. The Land Bank shall hold in its own name all real property it acquires. The Land Bank may only acquire real property located in Westmoreland County.

6.2 **Acquiring Occupied Homes:** When the Land Bank acquires residential properties that are occupied by the owners at the time of acquisition, it shall be the policy of the Land Bank to show a preference for keeping the former owner-occupants in their homes, whenever feasible.

§7. Inventory

7.1 The Land Bank shall maintain and make publicly accessible on its website, and at its offices during normal business hours, the following information:

- a. An up-to-date inventory of property owned or held by the Land Bank;
- b. A record of all properties conveyed by the Land Bank to other parties within the previous and current calendar year.

§8. Discharge and Abatement of Real Estate Taxes and Other Municipal Claims

8.1 The Land Bank is authorized to discharge liens and other municipal claims, charges, or fines of Westmoreland County and the Land Bank may seek to enter into an agreement for discharges from the applicable municipal body against the properties it acquires.

8.2 For the duration of the time a property is held by the Land Bank, the Land Bank is authorized to abate all real estate taxes and other municipal charges by the County of Westmoreland and, to the extent necessary, may seek abatement or non-taxable status, from other applicable government entities.

§9. Disposition of Property

9.1 The Land Bank is authorized to convey, exchange, sell, transfer, lease, grant, or mortgage interests in real property of the Land Bank in the form and by the method determined to be in the best interests of the Land Bank, except where expressly limited in this Section.

9.2 The Board of Directors may delegate this disposition authority to the staff of the Land Bank except in the following circumstances in which the Board itself must review and approve transfers of property at a public meeting:

- a. The proposed terms of the transaction conflict with the Land Bank's published policies or procedures; or
- b. When otherwise required by law.

9.3 The Land Bank shall be guided by such hierarchical ranking of priorities for the use of real property conveyed by the Land Bank as the Board of Commissioners of the County of Westmoreland may establish, including use for:

- a. Retail, commercial and industrial activities.
- b. Affordable housing.
- c. Purely public spaces and places.
- d. Conservation areas.

§10. Pricing

10.1 Market Value shall be determined by up-to-date data, and by using the valuation method that the Land Bank or its staff has determined is most appropriate given the particular conditions of the property and surrounding market.

10.2 Nominal or reduced price disposition shall be an option for any property owned by the Land Bank.

10.3 In calculating a reduced sales price, the discount shall take into account the benefit provided by the proposed use, and the amount of discount needed to make the project both initially financially feasible and continually sustainable.

10.4 For housing projects serving households at a mix of income levels, the Land Bank may count the number of low and moderate income households served and provide proportionate discounting.

10.5 The Land Bank shall make available an appeals process wherein a potential purchaser may submit evidence relevant to the value of a property.

10.6 The Land Bank shall enforce any provisions agreed upon as conditions of sale between the transferee and the Land Bank through legally binding mechanisms, including but not limited to deed restrictions, covenants, and mortgages.

§11. Policies

11.1 Policies of the Land Bank shall initially be adopted and thereafter reviewed at least every other year by the Board of Directors of the Land Bank, with opportunity for public input and comment. Policies shall be published on the Land Bank's website.

11.2 County Residents shall have the following means of supplying input into the Land Bank decision making process:

- a. Any individual or organization may submit recommendations for Board Membership to the Board of County Commissioners for their consideration in making appointments.
- b. Any individual or organization may submit recommendations to the Land Bank Board or staff for real properties that could be acquired by the Land Bank, and the purpose for which such properties could be developed.

§12. Financial Provisions

12.1 To the extent allowed by law, the Land Bank shall retain proceeds from the sale of any properties to cover or contribute to operating costs, maintenance of inventory, and to support additional strategic property acquisition.

12.2 The Land Bank may finance its operations through any means authorized in Section 2111 and 2112 of the Act of October 24, 2012, P.L. 1239, No. 153 (68 Pa. C.S. §§2111 and 2112).

§13. Dissolution; Distribution of Assets in Case of Dissolution

13.1 The Land Bank may be dissolved according to the requirements of state law upon a finding adopted by a two thirds majority of the Board of Directors and approved by the Westmoreland County Board of Commissioners that there is no longer any need for a land bank to function within the territorial limits of the County of Westmoreland. Assets, upon dissolution of the Land Bank, shall be distributed according to law.

§14. Insurance and Indemnification

14.1 The Land Bank shall obtain insurance to defend and indemnify the Land Bank and the Members of the Board of Directors with respect to all claims or judgments arising out of their activities as Board Members with respect to all negligence claims, and claims or judgments arising out of Land Bank activities performed on behalf of the Land Bank or County. Insurance may be through coverage by the County of Westmoreland.

14.2 To be eligible for defense and indemnification, a Land Bank Board Member shall be obligated to:

- a. Notify, within five days of receipt, the Board Chair of the Land Bank, and the Executive Director of the Redevelopment Authority of the County of Westmoreland, about any claim made against the Member and deliver all written demands, complaints and other legal papers received with respect to such claim.
- b. Cooperate during the investigation and defense of any claim against the County, the Land Bank or any Member of the Land Bank, including, but not limited to, preparing for and attending depositions, hearings and trials and otherwise assisting in securing and giving evidence.

§15. Filing with Commonwealth Departments

15.1 Upon adoption of this Ordinance, the Chief Clerk shall file a copy of the Ordinance with the Pennsylvania Department of Community and Economic Development and with the Pennsylvania Department of State.

§16. Repealer

16.1 All Ordinances and parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar as they are inconsistent herewith.

§17. Effective Date

17.1 This Ordinance shall become effective immediately.

ORDAINED AND ENACTED by the Board of Commissioners of the County of Westmoreland, Pennsylvania, this 19th day of December, 2013.

ATTEST:



Chief Clerk

BOARD OF COMMISSIONERS
OF WESTMORELAND COUNTY



Charles W. Anderson, Chairman



R. Tyler Courtney, Vice Chairman



Ted Kopas, Secretary