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Banking on Connecticut land banks: A good investment - by Ann Catino

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Connecticut land banks require interest, but not necessarily with a steep financial rate attached. In 2017, the Connecticut General Assembly established the authority for one or more municipalities to establish land banks and the interest is increasing in a good way. So what are they? And why is this important for development of real estate in the state of Connecticut?

During the last decade, Connecticut has established numerous programs for the redevelopment of abandoned, underutilized and contaminated sites, called brownfields. These brownfield sites have dotted the landscape in every Connecticut town and are constant reminders of an industrial legacy gone by. But, Connecticut has pivoted. Liability relief programs for innocent purchasers, municipalities and funding programs – grants to municipalities and economic development corporation and loans to businesses - have been established. And, now, to add to a robust, creative and progressive program, Connecticut has chartered new banks – for brownfield lands.

A brownfield land bank is a private non-stock corporation which has federal 501(c)(3) or 501(c)(4) non-profit status. The land bank in Connecticut must be nonprofit, which means that no distribution may be made to its members, directors, or officers. Once that threshold is met, it must be certified by the Connecticut Department of Economic and Community Development. To provide certification, the Commissioner of DECD considers whether the applicant has the financial and technical capability to fulfill the purposes of a land bank, the relative economic conditions of the municipalities the organization proposes to serve, the degree to which these municipalities support the organization, the quality of the land bank's business plan, and any other criteria the commissioner deems appropriate. Members of the land bank's board of directors serve without compensation, while allowing for reimbursement of certain expenses. The board members are not personally liable for the land bank's loans, other financial obligations, or environmental liabilities, nor are they subject to creditors' rights.

Once certified, a land bank may assemble, take control of and acquire brownfield sites, often

overseeing investigation and conducting remediation. It does the due diligence while actively marketing the property, and finding the best fit and use for the municipality. The land bank is eligible for state and local grants, but it may generate revenue from other sources – that is, it can accept tax exempt contributions from private donors – individuals, corporations, businesses, other nonprofits. And, while it is overseeing the property, it receives all the liability relief and benefits of an innocent landowner under Connecticut's brownfield laws. But it can do more: clear title and tax liens, assemble properties, raise funds, avoid new property taxes and facilitate remediation – whatever it takes to make brownfield sites more ready for redevelopment.

As a mechanism for the acquisition of brownfields, a land bank provides a foundation for long-term economic development. It is designed to acquire sites and then create development-ready land and ultimately transitioning it to uses that serve the long-term economic interests of the community. Making land “development ready” might involve due diligence, site cleanup, hazardous building material abatement, demolition of structures, infrastructure improvements, clearing title, removing tax delinquencies, and securing appropriate zoning. In some cases, the land bank would also assemble adjoining parcels to create a unified and marketable mixed use, transit oriented, commercial or industrial development. While the property is being held, the advantage to the land bank is that no additional property taxes would be incurred and past ones potentially fully extinguished; hence, making it attractive to any developer.

A land bank fills the gap and further insulates liability to municipalities or third party developers who may not yet be ready to tackle or even hold a contaminated property. With the various challenges presented, including limited resources and staff, the creation of a land bank could become a driving force for the acquisition of brownfield site, which is also designed to work more nimbly with the municipality's economic development leaders. While some municipalities and civic minded individuals already have created certain variations on this theme- of creating non-profit, non-stock economic development corporations, the land bank provides more flexibility and certainty for the flow of funds, liability relief and redevelopment potential. Towns that have a redevelopment corporation or authority have limited tools to effectively take control of large inventories of brownfield sites and return them to productive use. Such entities usually focus primarily on development and transitioning the property to an end user. While land banks may also fill this role, the authority of land banks is broader. And, it is a place for developers to look at and evaluate when shopping for sites that have pre-existing utilities and infrastructure.

Land banks have been used successfully in other states, under a state program or as delegated to a county or regional land bank. There are approximately 140 land banks and land banking programs throughout the country, largely created as a direct response to a growing inventory of brownfield sites that the private market may not be aware of or find too difficult to address.

Since the passage of the Connecticut law, one such corporation has been formed, aptly named the Connecticut Land Bank, Inc. and certified. With the number of sites that exist in Connecticut's 169 towns, the dissolution with a land bank of liability, tax, and title issues and financial barriers that are perceived to exist, there is room for more. The interest is clearly soaring; it is time to get invested.

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