

ATLANTA CASE STUDY SUMMARY
MODEL PRACTICES IN TAX FORECLOSURE AND PROPERTY DISPOSITION

OVERVIEW:

The City of Atlanta and Fulton County are working to address the issue of property tax delinquency in many of Atlanta's neighborhoods, based on an acknowledgement that restoring properties to the tax rolls will enhance local government tax collection, as well as improve the neighborhoods. The implementation of several new legislative measures since 1990 has streamlined the property disposition in Atlanta significantly.

MODEL ELEMENTS OF ATLANTA'S SYSTEM:

1. The Inventory System

Fulton County maintains a current inventory of the properties in tax arrears. Resources available for public and government use include a searchable computer database in the Tax Commissioner's office and the Bureau of Planning's map of tax delinquent properties.

2. Legislation enabling a judicial tax foreclosure process

In 1995, the Georgia General Assembly enacted judicial tax foreclosure legislation (O.C.G.A. § 48-4-75) that provided the following critical improvements over the nonjudicial tax foreclosure procedure:

- Increased the notice requirements prior to a judicial tax sale and included court proceedings in the process, which has made it significantly less complicated and less time-consuming to insure the titles of tax sale properties in Atlanta.
- Shortened the redemption period from twelve to two months to further expedite the entire acquisition process.
- Serves as an effective mechanism for the local governments to regain lost tax revenue, as about 80% of tax-delinquent property owners repay owed taxes before the foreclosure is final under the judicial foreclosure proceeding.

3. The Fulton County/City of Atlanta Land Bank Authority

The Fulton County/City of Atlanta Land Bank Authority (LBA) has been effective in returning non-tax revenue generating parcels to productive use and putting properties back on the tax rolls. Important facts about the LBA include:

- The LBA was authorized by state statute in 1990, and a series of statutory amendments since then have improved the effectiveness of the LBA operations.
- The LBA is able to waive delinquent taxes on properties that CDCs purchase on the open market and on properties the LBA acquires from the government through a variety of means.
- The LBA expedites the process of clearing title on acquired properties.
- The LBA serves as an intermediary between government and community-based redevelopment efforts.

4. Coordination among local stakeholders to bring about change

Due to the coordinated advocacy efforts among nonprofit, government and private stakeholders in the community, Georgia's General Assembly enacted the above-mentioned legislation that has strengthened the foundation for high-impact community-based redevelopment efforts. Specific coordination achievements include:

- An informal coalition of affordable housing advocates, CDC leaders, and government officials have met monthly in a Housing Forum since the late 1980s. The Housing Forum is the basis of many of the local and state housing initiatives.
- The local governments have maintained a direct involvement in these discussions, and have committed 75% of Atlanta's CDBG funds to housing revitalization activities, including funding for the LBA, infrastructure improvements, down payment and closing cost assistance programs, and other development subsidies.

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The City of Atlanta and Fulton County governments have created an effective system for disposing of publicly owned and lien encumbered property. Various laws, policies and programs of Atlanta's property disposition system have helped to expedite the acquisition of properties by Community Development Corporations (CDCs). To facilitate disposition, Fulton County keeps an inventory of all properties in tax arrears. Interested parties can access tax and title status about a property or area using a computer database at the Tax Commissioner's office. Currently, CDCs use the inventory listings extensively. The government and the public can also access maps of tax delinquent properties made available by Atlanta's Bureau of Planning.

In addition, Georgia's General Assembly adopted legislation in 1995 that made the foreclosure process more CDC-friendly by establishing a judicial foreclosure process. In a nonjudicial process, there is no confirmation that all required procedures have been adhered to, often resulting in uninsurable titles. The nonjudicial tax foreclosure process requires approximately two years to complete, and then must be followed a Quiet Title Action that can take one to three years and costs an average of \$2,500. Under the judicial foreclosure system, CDCs can solicit the inclusion of tax delinquent properties in the Tax Commissioner's judicial foreclosure procedure. CDCs target properties that are not likely to sell at auction, after which the Land Bank Authority may acquire them and pass them directly to CDCs. A judicial hearing is held to make sure all notification requirements have been met before the tax foreclosure sale is held. Within three months of the sale, if the property is not redeemed by the tax-delinquent owner (there is a two month time limit for redemption versus twelve months for nonjudicial foreclosure), the Tax Commissioner issues a tax deed with a free and clear title to the purchaser. Title insurance companies regularly insure title of properties conveyed through the judicial tax foreclosure process. In addition to the aforementioned benefits of judicial tax foreclosure, it has been an effective government mechanism for regaining lost tax revenue—about 80% of tax delinquent property owners repay owed taxes in cases of judicial tax foreclosure. Although allowed under state law, Atlanta CDCs do not participate in tax lien sales. Purchasing a tax lien does not give the purchaser ownership of the property, but rather the right to foreclose on that lien. Because of this, blighted property may remain as such and continue to have a negative effect on the surrounding community.

The Fulton County Land Bank Authority (LBA) is a very important tool used by CDCs. Established in 1991, the LBA's mission is "to free land bound by cloudy title for transfer to those who are bringing new life to struggling communities." The LBA requires that developers agree to produce affordable homes on the properties they convey within three years. The LBA was established pursuant to the adoption of state legislation in 1990 that provided for the creation of land bank authorities. The statute states that local land bank authorities may be established under the following conditions: they must **(1) be nonprofit entities, governed by boards comprised of both city and county officials; (2) have the authority to acquire, clear title, and dispose of tax delinquent properties according to guidelines of local agreements; and (3) be authorized to foreclose on tax delinquent properties, according to guidelines of local agreements.** CDCs in many Atlanta neighborhoods have been able to acquire lien-encumbered property directly from the owner by using the LBA to clear titles. Because of its efficiency, direct acquisition is the most frequently utilized tool by Atlanta CDCs, and most of what the LBA does involves direct acquisitions. The City has executed deeds for hundreds of properties to the LBA, allowing the LBA to take on the function of holding properties for disposition to CDCs at a later date and helping CDCs to continue development work in neighborhoods where property values are increasing.

The LBA is authorized by state legislation to use three primary mechanisms to acquire property. One is acquisition directly from tax delinquent property owners either by purchase or by accepting a donation of either property or a tax deed (however, LBA policy prohibits the purchasing of lands directly from tax delinquent owners). Another is to acquire the deeds to tax delinquent properties held by city or county agencies. This can be done by accepting conveyance of parcels held by the city of Atlanta and/or Fulton County, bidding on parcels levied by the Tax Commissioner, or purchasing tax liens from the Tax Commissioner through the 60-day notice process. The LBA can acquire parcels where a "failed sale" has occurred and can also request that the Tax Commissioner convey tax deed parcels to it. The LBA also acts as an intermediary by providing technical assistance to developers.

Strong coordination and among local nonprofit, government and private stakeholders is another distinguishing feature of Atlanta's property disposition system. This coordination has resulted in new advocacy for legislation and the formation of a "community development think tank" by community development professionals and community members. Local government is committed to strong involvement in housing revitalization, providing subsidies as well as infrastructure improvements. However, local stakeholders are still working to address two basic challenges: a lack of sufficient acquisition funds of both CDCs and the LBA; and a need for ongoing improvement in coordination among community development departments of the local governments, the LBA and the Tax Commissioner.