

ORDINANCE NO. 2169

AN ORDINANCE OF THE BURGESS AND TOWN  
COUNCIL OF THE BOROUGH OF POTTSTOWN  
CREATING THE POTTSTOWN BOROUGH LAND BANK.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Burgess and  
Town Council of the Borough of Pottstown, and it is hereby ENACTED and ORDAINED by the  
authority of same as follows:

**SECTION 1. Intent and Purpose.**

It is the intent and purpose of this ordinance to create the Pottstown Borough Land Bank, which will use available resources to facilitate the return of vacant, blighted, abandoned, and tax-delinquent properties to productive use, thereby combatting community deterioration, creating economic growth and stabilizing the housing and job markets in the Borough of Pottstown.

**SECTION 2. Findings.**

- A. The social and economic vitality of the Borough of Pottstown has been adversely affected by vacant, blighted, abandoned and tax-delinquent properties. Likewise, many commercial and industrial properties are not marketable due to small and irregular parcel sizes.
- B. Vacant, blighted, abandoned and tax-delinquent properties continuously impose significant costs on neighborhoods and communities throughout the Borough of Pottstown, by lowering property values, increasing fire and police protection costs, undermining public health and sanitation efforts, decreasing tax revenues and undermining community cohesion.
- C. Municipalities are now empowered to establish land banks as a tool to better combat blight and facilitate the return of vacant, abandoned and tax-delinquent properties to productive use.
- D. Land banks have the power to acquire vacant, abandoned, and tax-delinquent properties, clear title and extinguish liens on those properties, and transfer them to new owners with the capacity to return them to productive use in accordance with local plans and priorities.
- E. The Borough of Pottstown has a need for a land bank to function within the territorial limits of the Borough.

**SECTION 3. Authority**

This Ordinance is adopted pursuant to the provisions of Act 153 of 2012, enacted by the Pennsylvania General Assembly and signed into law by the Governor on February 24, 2012, 68 Pa. C.S. §§ 2101-2120.

**SECTION 4. Definitions.**

As used in this ordinance, the following terms shall have the meanings indicated:

**BLIGHTED PROPERTY REVIEW COMMITTEE** – The committee created pursuant to Section 1-941 of the Borough Code and the Urban Redevelopment Law, Act of May 24, 1945, P.L. 91, as amended.

**BOARD** – The Board of Directors of the Pottstown Borough Land Bank.

**BOROUGH** – The Borough of Pottstown, Montgomery County, Pennsylvania.

**COUNCIL** – Burgess and Town Council of the Borough of Pottstown.

**DEPARTMENT** – The Department of Community and Economic Development of the Commonwealth of Pennsylvania

**FINANCIAL INSTITUTION** – A bank, savings association, 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.

**INTERIM BOARD** – The initial Board of Directors of the Land Bank consisting of those individuals named in Section 7.B. of this Ordinance for the exclusive and limited purpose stated therein.

**INAUGURAL BOARD** - The Board of Directors of the Land Bank succeeding the Interim Board consisting of the representatives described in and appointed in accordance with Section 7.C. of this Ordinance.

**LAND BANK ACT** – the Act 153 of 2012, 68 Pa.C.S. §§ 2101-2120, as it exists on the effective date, and as it may be hereafter amended or replaced.

**OWNER-OCCUPANT** – As defined in the Land Bank Act, a natural person with a legal or equitable ownership interest in the 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.

**OWNER-OCCUPIED MARKET RATE HOUSING UNIT** – a housing unit occupied by the owner which is sold or recorded as sold at market rate.

POTTSTOWN BOROUGH LAND BANK or LAND BANK - The separate public body corporate and politic established pursuant to and in accordance with the provisions of this Ordinance.

PERSON – An individual, authority, limited-liability company, partnership, firm, corporation, organization, association, joint venture, trust, governmental entity or other legal entity.

REAL PROPERTY – As defined in the Land Bank Act, land and all structures and fixtures thereon and all estates and interests in land, including easements, covenants, and leaseholders.

SCHOOL DISTRICT – As defined in the Land Bank Act, any of the classifications of school districts specified in Section 202 of the Act of March 10, 1949 (P.L. 30, No. 14), known as the “Public School Code of 1949.” The term includes, as to any real property acquired, owned or conveyed by a land bank, the school district within whose geographical jurisdiction the real property is located.

STATE – The Commonwealth of Pennsylvania.

TAXING JURISDICTION – A county, city, borough, incorporated town, township, school district, or a body politic and corporate created as a municipal authority pursuant to law that may have claims against property that is subject to delinquent tax enforcement procedures.

#### **SECTION 5. Creation and Legal Status.**

- A. **Creation.** The Land Bank is established as a separate legal entity and a public body corporate and politic, to be known as the "Pottstown Borough Land Bank," for the purposes of acting as a Land Bank under the Land Bank Act and implementing and administering this Ordinance. The Land Bank shall have duration until terminated and dissolved under Section 17 of this Ordinance.
- B. **Bylaws, and Policies and Procedures.** The Inaugural Board of Directors shall adopt bylaws consistent with the provisions of this Ordinance and the Land Bank Act. The Inaugural Board of Directors shall adopt Policies and Procedures consistent with the provisions of this Ordinance, in particular, Section 15, and the Land Bank Act after the Inaugural Board of Directors is seated.
- C. **Tax Exemption.** In accordance with the Land Bank Act Section 2109(b), the Real Property of the Land Bank and its income and operations are exempt from State and local tax, except where specifically enumerated in the Land Bank Act. This tax exemption does not apply to Real Property of the Land Bank after the fifth consecutive year in which the Real Property is continuously leased to a private third party. However, Real Property shall continue to be exempt from State and local taxes if it is leased to a nonprofit or governmental agency at substantially less than fair market value.
- D. **Compliance with Law.** The Land Bank shall comply with all federal and state laws, rules, regulations and orders applicable to this Ordinance.

- E. **Obligations of the Land Bank.** The Land Bank shall not obligate the Borough nor shall any obligation of the Land Bank constitute an obligation of the Borough.
- F. **Authority.** All personnel, facilities, equipment and supplies within the Land Bank shall be governed by a Board of Directors as provided herein.

**SECTION 6. Mission.** The mission of the Land Bank is to deter blight and to return vacant and underutilized property to productive use through a unified, predictable, and transparent process, thereby revitalizing neighborhoods, creating opportunities for economic development, and strengthening the Borough of Pottstown's tax base.

**SECTION 7. Board of Directors.**

- A. **Governance.** The Land Bank shall be governed by a Board of Directors as provided herein.
- B. **Interim Board.**
  - 1. Upon the effective date of this Ordinance, an Interim Board of Directors shall be constituted for the exclusive and limited purpose of compliance with Section 2104(a)(3) of the Land Bank Act that requires this Ordinance to specify the names of individuals to serve as initial members of the Board.
  - 2. The Interim Board shall have no power or authority to adopt governing documents like the Bylaws or Policies. The Interim Board of the Land Bank shall consist of the five (5) members of the Borough's Blighted Property Review Committee.
  - 3. Interim Board members shall serve terms of three (3) months, or until all the members of the Inaugural Board have been appointed pursuant to Section 7.C. below.
- C. **Inaugural Board, Number, Terms.** The Interim Board shall be replaced by the Inaugural Board of Directors of the Land Bank. Any individual or organization may submit to Council recommendations for board membership to be considered in making appointments. The Inaugural Board and all subsequent Boards of Directors of the Land Bank shall be constituted and seated as follows:
  - 1. The Inaugural Board and all subsequent Boards of the Land Bank shall be comprised of five (5) members appointed by the Council.
  - 2. The Inaugural Board shall be appointed for staggered terms as follows: two (2) members shall be appointed to serve three-year terms; two (2) members shall be appointed to serve two-year terms; and one (1) member shall be appointed to serve a one-year term. All subsequent Board appointments and re-appointments shall be for terms of three (3) years. Members shall continue to serve until their successors have been appointed.
- D. **Qualifications.** Members of the Board shall include individuals with expertise in relevant areas, including but not limited to planning, real estate development, open space, and architecture. At least one member of the Board shall (i) be a resident of the Borough, (ii)

not be a public official or municipal employee, and (iii) maintain a membership with a recognized civic organization in the Borough. All board members shall live or have a primary office in the Borough, unless the board member is an official or employee of Montgomery County or its agencies.

- E. **Compensation and Expenses.** Members of the Board shall serve without compensation and may seek reimbursement for expenses associated with the duties relating to Land Bank activities.
- F. **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.
- G. **Officers.** The 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.
- H. **Vacancies.** Any vacancy in the Board shall be filled for the balance of the unexpired term by and through appointment of the Council.
- I. **Removal.** Board members serve at the pleasure of the Council and may be removed by the Council at any time with or without cause, or may be removed pursuant to any other provision of Pennsylvania law.
- J. **Quorum.** A quorum shall be necessary for the transaction of any business by the Board. A majority of the members of the Board, excluding vacancies on the Board, shall constitute a quorum. The Board 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 or the Land Bank Act. No voting by proxy shall be permitted.
- K. **Bylaws.** The Board shall adopt Bylaws, inclusive of rules, on all of the following: (1) Duties of officers; (2) Attendance and participation of Board members in its regular and special meetings; (3) procedures to remove a Board member; and (4) other matters necessary to govern the conduct of the Land Bank and the Board.
- L. **Meetings of the Board.** The Inaugural Board shall conduct its first meeting no later than thirty (30) calendar days after the Board is appointed. 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. All meetings of the Board shall comply with the Pennsylvania Sunshine Act. The Chair of the Board may call special meetings by written notice at least twenty-four (24) hours in advance to each Board member and 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.

- M. **Minutes.** Minutes of all meetings of the Board and its Committees shall be made and maintained.
- N. **Committees.** The Board 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. Any business proposed by a Committee shall require approval by the Board.
- O. **Fiduciary Duty.** The members of the Board are under a fiduciary duty to conduct the activities and affairs of the Land Bank in the best interests of the residents of the Borough, including the safekeeping and use of all Land Bank monies and assets. Fidelity bonding shall be obtained by the Land Bank for officers and staff who are responsible for the finances of the Land Bank. The Board shall discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**SECTION 8. General Powers.** The Land Bank may exercise all of the powers, duties, functions and responsibilities of a Land Bank under the Land Bank Act as authorized by Section 2107 and any other provisions of the Land Bank Act and any other Pennsylvania law.

**SECTION 9. Land Bank Administration and Staff.**

- A. **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 Borough or other partnering public entities.
- B. **Municipal Contracts for Services:** The Land Bank may enter into a contract or memorandum of understanding or intergovernmental cooperation agreement with a municipality for:
  - 1. The municipality to provide staffing services to the Land Bank; or
  - 2. The Land Bank to provide staffing services to the municipality.

**SECTION 10. Acquisition.**

- A. 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 by transfer from the Montgomery County Tax Claim Bureau. The Land Bank shall hold in its own name all Real Property it acquires.
- B. **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.

- C. Any individual or organization may submit recommendations to the Land Bank Board or staff for Real Property that could be acquired by the Land Bank, and the purpose for which such properties could be developed.

**SECTION 11. Inventory.**

The Land Bank shall maintain and make available for public review and inspection an inventory of Real Property held by the Land Bank. The inventory shall be maintained as a public record and shall be filed in the principal office of the Land Bank.

**SECTION 12: Discharge and Abatement of Real Estate Taxes, Water and Sewer Charges, and other Municipal Claims.**

- A. The Land Bank is authorized to discharge liens and other municipal claims, charges, or fines of the Borough and the Land Bank may seek to enter into an agreement for discharges from the applicable municipal body against the properties it acquires.
- B. 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, water and sewer charges, and other municipal charges by the Borough and, to the extent necessary, may seek abatement or non-taxable status from other applicable Taxing Jurisdictions and government entities.

**SECTION 13. Disposition of Property.**

- A. 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.
- B. 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:
  - 1. The proposed terms of the transaction conflict with the Land Bank's published policies or procedures; or
  - 2. When otherwise required by law.
- C. **Priorities.** Section 2110(e) of the Land Bank Act authorizes land bank jurisdictions to establish a hierarchical ranking of priorities for the use of Real Property conveyed by the land bank. The ranking of priorities for the use of Real Property conveyed by the Pottstown Borough Land Bank shall be the following in the order in which each appears
  - 1. Owner-occupied market rate housing units;
  - 2. Retail, commercial and industrial activities, including mixed-use development;
  - 3. Housing options for every income level;
  - 4. Vacant residential parcels conveyed to neighboring property owners for side and rear yards;

5. Urban agriculture and community open space; and
  6. Public purpose.
- D. The Land Bank shall consider all duly adopted land use plans and make reasonable efforts to coordinate the disposition of Land Bank Real Property with such land use plans.

**SECTION 14. Pricing.**

- A. The Board shall state in the Land Bank policies the general terms and conditions for consideration to be received by the Land Bank for the transfer of Real Property and interests in Real Property. The Board shall determine the amount and form of consideration necessary to convey, exchange, sell, transfer, lease as lessor, grant or mortgage interests in Real Property.
- B. As determined by the Board and to be set forth in policies and procedures, consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee and other forms of consideration determined to be in the best interest of the Land Bank.

**SECTION 15. Policies and Procedures.**

- A. The Land Bank shall develop policies and procedures consistent with the provisions of this Ordinance and the Land Bank Act. These policies and procedures shall be guided by the Land Bank's mission, purpose, and priorities as set forth in this Ordinance. In addition, the following goals shall guide the activities and policies of the Land Bank:
1. Facilitate the acquisition of vacant and abandoned property by qualified developers for redevelopment as owner-occupied market rate housing units.
  2. Facilitate land assembly to promote commercial, industrial and mixed-use developments.
  3. Encourage the revitalization of neighborhoods by extending nominal or reduced price dispositions to projects that demonstrate beneficial community impact, by supplying housing options for all income levels, including but not limited to: mixed-income housing that is accessible; economic development that creates jobs for community residents; community facilities that provide needed services and enrichment opportunities; side and rear yards; urban agriculture; and community open space.
  4. Use up-to-date data and analysis to identify different neighborhood inventory and market conditions.
- B. Land Bank policies and procedures, including but not limited to the acquisition and disposition of Real Property by 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. The initial policies and procedures of the Land



Bank and any subsequently adopted policies and procedures shall be approved by resolution of the Council. Policies and procedures shall be published on the Land Bank's website.

- C. As part of its policies and procedures, the Land Bank shall adopt strict ethical guidelines for Land Bank Board members and employees, and promulgate rules addressing and protecting against potential conflicts of interest. These guidelines and rules shall supplement any applicable state and local laws.
- D. Residents shall have the following means of supplying input into the Land Bank decision making process:
  - 1. Any individual or organization may submit recommendations for Board Membership to the Council for their consideration in making appointments.
  - 2. Any individual or organization may submit recommendations to the Land Bank Board or staff for Real Property that could be acquired by the Land Bank, and the purpose for which such properties could be developed.
  - 3. Any individual or representative of an organization may provide public comment at any public meeting of the Land Bank Board of Directors.

**SECTION 16. Financial Provisions.**

- A. 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.
- B. The Borough authorizes the remittance or dedication to the Land Bank of 50% of the real estate taxes collected pursuant to the laws of the state on Real Property conveyed by the Land Bank. Said remittance or dedication shall commence with the first taxable year following the date of conveyance and continue for a period of five years pursuant to Section 2111(c) of the Land Bank Act, 68 Pa. C.S. § 2111(c). 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 jurisdictions.
- C. 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).

**SECTION 17. Dissolution, Distribution of Assets in Case of Dissolution.**

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, and approved by the Council, that there is no longer any need for a land bank to function within the territorial limits of the Borough. Assets, upon dissolution of the Land Bank, shall be distributed according to law.

**SECTION 18. Insurance and Indemnification.**

The Land Bank shall obtain insurance to defend and indemnify the Land Bank, members of the Board, and staff with respect to all claims or judgments arising out of their activities with respect