

# Policy Options for Addressing Parcelization

A key problem for economic development policy relates to land for larger-scale development: large projects need more land. If larger sites are not available because land has over time been divided into and developed on smaller and smaller parcels, larger parcels have to be assembled from smaller parcels.

Chapter 2 and 3 of this report discussed a range of obstacles to development of larger projects, only one of which was parcelization. This appendix looks *only* at the potential problem of parcelization and looks at policies the public sector (primarily local governments with land-use authority: cities and counties) might take to reduce that problem. In particular, it focuses on *land assembly*, which is a rewind of the parcelization process: if parcels are now so small and so many that they are obstacles to desired types of development, then the parcels need to be consolidated (assembled) back into larger parcels.

The fundamental issue is not the size of the parcels per se. Rather, the problem is that small parcels suggest more owners per acre, and multiple owners is an obstacle to development. The more people that have a stake and a right to be involved in a decision (combined with the fact that all parties have veto power), the more difficult, time-consuming, and costly it is to get to an agreement on action.

This appendix divides actions related to land assembly into two broad categories: (1) assembling land under a single ownership (which ultimately requires purchasing the land from prior owners and eliminating them from the subsequent development process); or (2) assembling land under multiple ownerships, which may or may not include purchase but may also include legal arrangements that allow a developer to make decisions efficiently even though there is multiple ownership (corporations are a good example: multiple owners [shareholders] but clear executive authority to make operational decisions).

The analysis provided in this appendix relies on professional judgment, interviews with developers, and a review of relevant literature.<sup>1</sup>

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<sup>1</sup> The text in this appendix draws on work ECONorthwest did in 2011 for Oklahoma City and published in 2012 as Appendix E of the City's Employment and Industrial Land Analysis. Larry

In other related research, ECONorthwest has organized the typical policies that the public sector can take to address land-use and land-supply aspects of economic development into four categories:

1. Land use regulation and policy
2. Infrastructure availability, proximity, and capacity
3. Characteristics of parcel sizes, configuration and surrounding development of employment lands
4. Institutions (public and private) whose interactions impact the success of locating desired development into targeted areas

This appendix addresses parts of the third category, and does so in three parts. and is organized as follows:

- **C.1 Policies to reduce *new* parcelization** starts by noting that not all parcelization is bad: some local and regional development goals stress greater density, which probably increases (though not always) smaller parcels (parcelization). At a minimum, in locations where significant or different development or redevelopment is desired, local governments should review their plan and zone designations to make a judgment about whether they are getting parcelization they want, or parcelization they do not want. In other words, even before going to the effort of assembling land, a jurisdiction can address the question of whether it wants to reduce the rate at which it is being parcelized, or the increase the ultimate minimum lot size.
- **C.2 Policies to reduce *existing* parcelization (land assembly)** focuses on land assembly as the primary method for reducing existing parcelization. It discusses the factors – market, policy, social, or otherwise – that may prevent land assembly from occurring, explains several methods for land assembly where the public sector remains the sole owner of the assembled parcel, and explains methods where benefits and risk associated with the final assembled parcel are shared among multiple owners (usually a mix of public and private entities). This section also summarizes successful management practices and techniques that public sector entities across the nation have used.
- **C.3 Policies to reduce problems *caused* by parcelization** explains that development feasibility and parcel availability can be increased by reducing construction costs or increasing potential investment returns (revenues). There are public policy options available to help

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Pederson of IronWolf did the initial draft and was lead author. ECO (Terry Moore) and IronWolf discussed the draft and ECO rearranged, edited, and added to create the final product.

make small parcels work for development in the absence of land assembly, thereby reducing the negative impacts of parcelization

## **C.1 POLICIES TO REDUCE *NEW* PARCELIZATION**

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Section 2.1.1 of the main report makes the case that not all parcelization is bad: most of it is probably good. But in locations where public policy wants to see redevelop, it is possible for small parcels to make redevelopment difficult.

Zoning (which implements plan designations) is the typical way that local governments describe (among other things) the level of parcelization that they deem appropriate and allowable. A zone's minimum lot size or various setback requirements translate into a number of dwelling units or square footage per acre. Sometimes minimum (or even maximum) parcel sizes are directly specified.

Thus, local planning aimed at "smart growth" faces a dilemma. On the one hand, it supports greater density, which probably increases (though not always) the number of smaller parcels (parcelization). On the other hand, it wants redevelopment and integrated mixed-use development that creates functional and walkable commercial districts in designated centers, which is hindered if parcels are small and many.

Trying to assemble land after it has been parcelized (Section 4.2 of the main report) may be harder than reducing additional parcelization now. In concept, the public policies to do that are in the local comprehensive plan and implementing zoning. If a jurisdiction wants less parcelization, it can increase the minimum allowable parcel size.

The reality, however, is more complicated and nuanced. A city may want a zone to work one way in general and in most parts of the city, but it may want to adjust the allowances and requirements in one or two specific subareas.

This study was not scoped to go into the detail of local land-use ordinances. Our recommendation here is thus general. At a minimum, in locations where significant or different development or redevelopment is desired, local governments should review their plan and zone designations to make a judgment about whether they are getting parcelization they want, or parcelization they do not want. If the later, they should consider amending land-use policies and ordinances.

## C.2 POLICIES TO REDUCE *EXISTING* PARCELIZATION (LAND ASSEMBLY)

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### C.2.1 BARRIERS TO LAND ASSEMBLY

Assembling multiple parcels into a site suitable for development can be a very difficult task. Among the difficulties:

- Property owners may be unwilling to sell (for many reasons: price, tax impact, sentimental value, replacement costs, viable alternative locations)
- Land is expensive, and owners may have an inflated expectation about its value
- Just *one owner* in a larger site assembly has the power to stop a deal that all others support
- After assembly the properties may be too small, fragmented, or oddly shaped to adequately site desire development
- Local politics and neighborhood might make a certain development type unfeasible, regardless of property conditions
- In the case of outright purchase by a county, a city, or another public entity the carrying cost of major land holdings for future development could be significant
- Ownership interests are fractured (often true in family inheritance situations); this issue often is combined with absentee ownership, so that owners don't really have a "stake" in the transaction and its potential development/economic impact on the community
- The regulatory environment (zoning, environmental overlays, mandated parcel size) adds to costs, and all the benefits of the regulations may not accrue to property owners and developers
- Infrastructure demands caused by land assembly, and the commensurate ability to finance necessary improvements, often create barriers
- Legal issues, including clear title, easements, and encumbrances, are obstacles
- Existing development or structures on site or on neighboring parcels is especially a problem when a property owner has a fully capitalized stake in his or her property and is realizing a perpetual positive cash flow from tenants – in this case there is little incentive to risk this cash flow for perhaps a slightly higher return from redeveloping.

Given the difficulties these problems may present in assembling a larger development site from smaller parcels, one can see why fragmented ownership may be a “deal-killer” for developers who do not have the time, patience, or expertise to wade through a possible quagmire of issues.

## **C.2.2 LAND ASSEMBLY UNDER A SINGLE OWNERSHIP**

There are many ways that the public sector can assist with land assembly; this section focuses on best practices for land ownership under a single ownership. The rest of this section discusses:

- Outright purchase by public sector
- Donation or grant to public sector
- Acquisition and holding by foundations
- Purchase options
- Acquisition of surplus state or county land

### **C.2.2.1 Outright purchase**

The ultimate in property control for a public entity is outright ownership. This ownership allows the community to set its own criteria and requirements for potential purchasers of the property, in terms of uses, compatibility, targeted industries, and other factors. Additionally, public entities can represent “patient money”; i.e. the desire to turn land quickly for a profit is often not as pronounced with public sector ownership as it is with private sector purchases. The initial investment in land can be very significant, and when combined with holding costs can make the decision whether or not to use this tool difficult.

Cities around the region, state and country have taken this course of action, usually in the form of creating a business park. Sometimes, as in the case of Corsicana, Texas’ I-45 Park, city property ownership allows creative deal making for targeted businesses. In Corsicana’s park, a desired business that meets the threshold for investment and employment (\$10 million and 50 FTE) is eligible for a 20 year grant/loan, with 1/20 of the land value forgiven for each year of operations within the stated guidelines. In the case of Chillicothe, Missouri, the city’s industrial park is so successful that it was recently expanded by a purchase of an additional 174 acres.

As a cautionary note, these business parks exhibit a wide range of outcomes, from those that are fully occupied, to those that sit vacant for years and can end up being a dump site for debris. In some instances, public-owned property is seen as an “unfair” competitor to privately-held property; this is currently a topic of debate in Wichita, Kansas. Cities that

have invested in business parks often change criteria for their targets based on changed composition of city leadership and staff; in smaller communities, “who you know” can influence whether your project (often in non-compliance with stated goals) will be allowed in the business park. As time goes on, and the parks do not provide the economic activity desired, initial criteria often are relaxed or abandoned completely in order to get something going.

Land acquisition can play a role in smaller-scale redevelopment efforts. The City of Burien, WA spent three years assembling land for a 10-acre Town Square development.<sup>2</sup> The land assembly, which was funded by set-aside municipal real estate taxes, provided the contiguous parcels that now house Burien’s City Hall, public library, and retail, office, and residential space. Burien has also purchased several parcels adjacent to an existing transit center in order to facilitate a transit-oriented development project.

### **C.2.2.2 Donation or grant**

This form of property transfer can have many motivations on the part of the grantor: tax reasons, designation for specific use or purpose, a family or personal memorial, or many others. Clearly, the benefit to the public sector is the minimal “cost basis” in the property. The minimal initial cost can sometimes be offset by significant ongoing costs for maintenance and upkeep on donated properties. Additionally, observing the wishes of the grantor can lead to a very narrow range of alternative uses.

Prime industrial land, without environmental constraints or other encumbrances like easements, is rarely a subject of grants or donations. Research regarding land donations around the country indicated that undeveloped land contributions to public entities are almost universally targeted at some public purpose, such as parks and open spaces, or for the construction of a public building such as a school or community center. No specific instances were found of land contributions to public entities where the entity in turn could use that property for for-profit development. Some cities that have recently benefited from donated land are:

- Irvine, CA: land to be used for affordable housing development
- Knoxville, TN: land to be used for parks and open spaces

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<sup>2</sup> *Job and Housing Growth in King County’s Urban Centers: Factors, Strategies, and Tools Influencing Development*. King County Benchmark Program, 2006.  
[http://your.kingcounty.gov/budget/benchmrk/UC\\_Study/UC\\_STUDY\\_EXEC\\_SUMMARY.pdf](http://your.kingcounty.gov/budget/benchmrk/UC_Study/UC_STUDY_EXEC_SUMMARY.pdf).  
Greenberg, Scott. *King County Growth Management Planning Council Agenda Item: Designation of Downtown Burien as an Urban Center*, 2004  
[your.kingcounty.gov/ddes/gmpc/2004/052604\\_III\\_BurienRpt.doc](http://your.kingcounty.gov/ddes/gmpc/2004/052604_III_BurienRpt.doc).

- Conroe, TX: land to be used for parks and open spaces.

### **C.2.2.3 Acquisition and holding by foundations**

Foundations can often acquire and hold land as a part of their investment portfolios. Most often, the land in question would need to be a productive asset that would provide a financial return that could be used to fund the foundation's programs. Alternatively, various foundations hold land for conservation purposes, as in the case of the Conservation Foundation of the Gulf Coast (FL) and the Land Conservation Foundation of Illinois.

An exception to this would be a foundation created specifically for economic development purposes like acquiring and holding industrial land, such as the Abilene (TX) Industrial Foundation. That foundation is empowered to use its funds for a variety of economic development purposes, including providing sites at reduced cost to users who meet program qualifications.

The advantage to public entities is that the holding of land by foundation(s) represents "patient money" (i.e., not seeking a quick turnover and capital gain). Alternatively, land in a foundation portfolio might not easily be sold to prospective users and foundations often prefer to hold title to land and have lease-only structures if program revenues are the objective of property ownership.

As evidenced by the lack of interest in lease-only properties in many metro areas, a foundation taking this approach would be of limited benefit to the public sector if the purpose of the foundation was to generate long term funding from revenues generated by land leases.

### **C.2.2.4 Purchase options**

Frequently in large-scale land transactions, options are negotiated with sellers by a prospective buyer. Often those options cover a definitive time frame (e.g., 3 months, 6 months, or longer), with the ability of the buyer to extend the option through additional financial considerations. Options for a shorter term (0-3 months, depending on the strength of the market and regional conditions) frequently are done with little or no "hard money" (i.e., the prospective buyer does not pay anything for the short term). The prospective buyer can then activate an extension beyond that short term in return for a specified payment to the seller. Agreements between public and private entities, however, usually require options for a period of 12-18 months or longer (with extension allowances) for one to two percent of the agreed upon land price, particularly for larger sites. The buyer typically

uses this time to conduct due diligence on environmental and development issues that they then can compare with alternative locations.

In this control methodology, the public sector or its designated agent(s) could use the option process to assemble parcels from multiple ownerships in order to support the requirements of a particular prospective user, or for the development of a specified targeted area. The options could allow holding property off the market as infrastructure is provided, in order to prevent possible development of competing (and inconsistent) uses such as residential tracts.

The assembly of options on larger parcels for nominal cost is definitely an advantage of the option process, as is fixing a transaction price for each of the multiple ownerships. The public sector or its agent(s) could consider using a third party in the optioning process, since frequent public sector interest in properties can drive prices upward in excess of true market values. It is not unusual for property options to be negotiated confidentially with the identity of the prospective purchaser not disclosed.

The assignment of options is also a common occurrence in property transactions. Companies frequently option property without having fully analyzed the best ownership structure for the transaction. In some cases, companies create a specific LLC for land holdings; in other cases, owner(s) of the company own the land and buildings and lease them back to the company as an additional source of guaranteed revenue for themselves. No additional costs or compensation accrue to the option due to its assignability, according to real estate professionals contacted for the purposes of this study.

### **C.2.2.5 Acquisition of surplus state or county land**

This option is obviously not available in all situations – it applies only in special cases. It can occur when surplus land is created through infrastructure improvements, such as airport or road projects that create remnants that are not used for the actual project. Less frequently, land or buildings that become surplus can be granted or sold to the local jurisdiction by other entities (e.g., school districts, state agencies, public utilities) when they no longer serve their intended purpose.

## **C.2.3 LAND ASSEMBLY AMONG MULTIPLE OWNERS**

There are many ways that the public sector can assist with land assembly; this section focuses on assembling land where benefits and risk associated with the final assembled parcel are shared among multiple owners, usually a mix of public and private entities. In some cases, one



partner receives benefits in the form of infrastructure or tax credits rather than a share of outright ownership.

The rest of this section discusses:

- Cooperative land bank
- Public/private partnership
- LLC formed with public and private sector property owners as pro-rata share holders
- Horizontal development entity

### **C.2.3.1 Cooperative land bank**

Land banking as collaboration between a government and private sector or non-profit interests is not uncommon, but typically is targeted for housing or mixed-use development needs. In cities and counties where abandoned or deserted properties are a problem, governments take such properties over and place them in a land bank.<sup>3</sup> In most cases the public sector (or their agent, like an urban renewal agency) will gain control over a parcel/parcels and then join with for-profit or non-profit organizations who control additional parcels in order to reach a critical mass for development/redevelopment. The “rust belt” in Michigan, Ohio, and the industrial northeast has seen the most activity for land banks of this type.

Another, less frequent purpose of land banking is for open space and natural resource preservation. Nantucket Island, MA is a case in point, where natural areas are preserved in a land bank. The only identified instance of an industrial/commercial land bank was in Cleveland, OH. As their web site indicates:

The Industrial-Commercial Land Bank was established in 2005 by the City as a proactive approach to reusing properties with serious real estate obstacles, such as environmental contamination and/or economic hardships. This land bank provides the opportunity for the City to strategically assemble properties to attract businesses and create long-term economic and community investments.

This form of property control may require public entities to purchase parcels outright; in the case of abandoned properties the jurisdictions with taxing power could take them over in lieu of unpaid taxes. In any event, this could be an effective tool when public sector efforts complement development/redevelopment efforts of the private sector.

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<sup>3</sup> Examples include the Cuyahoga Land Bank in Cleveland, OH (<http://www.cuyahogalandbank.org/assembly.php>), the Genesee County Land Bank (Flint, MI; <http://www.thelandbank.org/default.asp>), and the Fulton County Land Bank in Atlanta, GA (<http://www.fccalandbank.org/index.htm>).

A 2005 literature review by the Great Lakes Environmental Finance Center identified a number of best practices for successful land banking.<sup>4</sup> In general, successful land banks have:

- Narrow, well-defined goals;
- Citywide coordination and cooperation between internal and external partners;
- Corporate legal structures that provide some measure of independence from local government;
- Integration of land banking with long-term strategic visioning;
- Streamlined processes for eminent domain and judicial foreclosure;
- Broad discretion for determining the terms of sale of land bank properties;
- A robust information system that contains parcel-specific data;
- Flexible, diverse funding sources.

### **C.2.3.2 Public-private partnerships**

According to the U.S. Economic Development Administration (EDA):

Public-private partnership (referred to as “PPP” or “PPPs”) is now a standard concept in business and state and local government circles, especially in the economic development realm. Some regard PPPs as “the” answer to many economic growth and development problems facing state and local governments today, while others express varying degrees of skepticism about their attractiveness and effectiveness. Nonetheless, most seem to agree that PPPs will likely remain an important approach to designing and implementing economic development strategies.

The importance of PPPs is evidenced by the number of governmental and economic development organizations that have devoted energy and resources to the issue; these include the National Council on Public-Private Partnerships (NCPPP), the National Association of State Development Agencies (NASDA) and the International Economic Development Council.

The Ronler Acres Urban Renewal Area (URA) in Hillsboro had a very successful collaboration with real estate developer PacTrust on land assembly that resulted in the creation of a site for Intel at Ronler Acres and

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<sup>4</sup> Great Lakes Environmental Finance Center, and Maxine Goodman Levin College of Urban Affairs, Cleveland State University. *Best Practices in Land Bank Operation*. Prepared for The Department of Economic Development, City of Cleveland, 2005.  
[http://urban.csuohio.edu/publications/center/great\\_lakes\\_environmental\\_finance\\_center/land\\_bank\\_best.pdf](http://urban.csuohio.edu/publications/center/great_lakes_environmental_finance_center/land_bank_best.pdf)

the Orenco Station mixed-use development that was one of the pioneers of “new urban form.” Additionally, the URA facilitated acquisition and development by local electric utility Portland General Electric (PGE) of significant industrial properties in that same area.

As productive as these partnerships can be, they potentially require significant public funds to be successful. In the case of Hillsboro, OR, the Ronler Acres URA had access to very sizeable tax increment funds to facilitate the partnerships noted above, both in terms of property acquisition and infrastructure investment. As a result, there was an ability to have an equivalency of financial interests with the private sector partners.

The EDA, in a study focused on PPP several years ago, called out examples of partnerships that in their estimation provided effective models for development:

Various public and quasi-public entities have been established in different cities and states to play the role of the public partner in real estate development projects in the first category. Genesis LA (Los Angeles), the Penns Landing Corporation (Philadelphia), and the National Capital Revitalization Corporation (NCRC, Washington, DC) are illustrative examples. On its website, Genesis LA identifies itself as “a cutting-edge initiative aimed at transforming abandoned and blighted properties throughout Los Angeles’ most disadvantaged communities” via “innovative financing vehicles that provide “last resort” gap financing” for real estate development in the inner city. Penns Landing Corporation was established by the City of Philadelphia as a PPP to develop and manage the central Delaware riverfront, providing land, public financing, and associated services to private developers. According to its website, NCRC is “a public-private entity designed to serve as an important manager of major development projects in the District of Columbia,” with a mandate to use “a myriad of incentives and other economic development tools . . . to shape development in the District’s downtown and neighborhoods.”<sup>5</sup>

Metro’s 2010 Community Investment Strategy repeatedly emphasizes the need for innovative and effective public-private partnerships. In his recommendations, the chief operating officer calls on Metro to:

- “Retool regional policies and maps to support local aspirations and focus public investments in downtowns, on main streets and near transit to stimulate private investment.
- “Jump start private investment by focusing public investments and efforts on specific priority projects.

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<sup>5</sup> Additional case studies can be accessed on the National Council of Public-Private Partnerships at: <http://ncppp.org/cases/index.shtml#ecdev>

- “Adopt a plan with strategies to guide public investment in partnerships with the private sector and to ensure limited public resources generate maximum private investment and complement the region’s investment in transit.”<sup>6</sup>

The Community Investment Strategy also references several successful PPPs in the Metro region, including Historic Downtown Gresham, College Station, and Troutdale Reynolds Industrial Park.

The ability of public entities to control the type, direction, and speed of development that a PPP will take is a key element in reaching objectives for maximizing industrial/commercial opportunities and investment in public infrastructure.

### **C.2.3.3 Limited Liability Corporation (LLC) formation**

As another type of control mechanism, public entities could join together with private landowners and form an LLC for a specified property or parcel. The public sector’s contribution could be investment in infrastructure, with the private owners contributing their land. Ownership of the LLC would then be on a pro-rata basis in proportion to the value of the contribution.

The LLC could be created as a specific-purpose entity to expressly assemble and make development-ready a certain site or sites. As a representation of the desired development pattern for the property, the public entities can be specific about the type(s) of enterprises and industries targeted for that area consistent with investment and employment goals. The group could then designate a price for the assembled property and represent a single point of contact for any future negotiations. The negotiations to form this specific-purpose LLC could be somewhat tricky, given that private sector landowners are more accustomed to selling on a “first come first served” basis, and might take some convincing that the public sector’s objectives can be met while at the same time preserving the value of the property and timeliness of its sale.

The benefit from a public sector standpoint would be to maximize the value of their infrastructure investments, and possibly make some or all of these infrastructure investments reimbursable when the subject property sells due to pro-rata ownership of the LLC. The creation of an LLC would be a more formalized form of public-private partnership through the formation of a legal entity.

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<sup>6</sup> “Community Investment Strategy: Building a sustainable, prosperous and equitable region,” Recommendations from Metro’s Chief Operating Officer, August 10, 2010. pp 12-13. [http://library.oregonmetro.gov/files//aug\\_2010\\_metro\\_coo\\_recommendations.pdf](http://library.oregonmetro.gov/files//aug_2010_metro_coo_recommendations.pdf)

### **C.2.3.4 Horizontal development entity**

Most land assembly is achieved when one party purchases the holdings of other to create a larger land parcel for development. One alternative that enables multiple property owners to benefit from larger scale redevelopment is the creation of a "horizontal development entity," or HDE.

HDEs are formed when willing individual property owners who control contiguous parcels voluntarily assign their land interest to a legal entity that is responsible for positioning and preparing the smaller parcels into one large development holding.

While the mechanics for establishing an HDE can vary, it is usually created when individual property owners realize they have more to gain by assembling their land into a legal entity to be able to better capture new, larger-scale development than they otherwise would be able to do if they acted only on their individual land holdings. Property owners can assemble larger parcels by agreeing to convert the value of their individual holdings into shares of a larger property holding entity. In this way each owner benefits from development over time regardless of where on the newly created assembled site the development occurs. Owners/shareholders also take on joint responsibility for improvements needed to make the land development ready. This effort can include partnerships with public agencies which may find it more effective and easier to work with one land holding entity rather than several to achieve objectives that would be in the interests of both the public and private sector.

HDEs will often (alone or in partnership with public agencies) prepare newly created larger sites for redevelopment by securing needed entitlements and constructing essential improvement such as roads and other infrastructure. HDEs may also elect to participate in vertical development as they sell off or ground lease portions of the newly created land holding.

Recent examples of HDEs include the central district of South Waterfront where a public university and private property owner formed a collective entity to prepare about 33 acres for more intensive mixed use development. Lake Owego's Foothills property owners have also been working toward establishing an HDE to facilitate phased redevelopment of an industrial area adjacent to downtown into a mixed-use residential and retail district.

## C.2.4 BEST PRACTICES IN LAND ASSEMBLY MANAGEMENT

A 2005 literature review by the Great Lakes Environmental Finance Center identified a number of best practices for successful land banking.<sup>7</sup> Many of these best practices apply to other land assembly tools where the public and private sector form partnerships and share in the benefits and risk associated with the final assembled parcel. The State of Georgia Department of Community Affairs has also created a toolkit for assembling land through public and private cooperation in order to meet mixed-income housing objectives: increasing supply of affordable housing; and increasing housing supply near employment areas.<sup>8</sup> These reports, combined with the experience of ECONorthwest, suggests that “best practices” would use:

- **Narrow, well-defined goals.** These goals will clarify the function and responsibility of public entities and departments for land assembly, and will also define the role the private sector will play and how risk will be shared across all cooperating parties.
- **Citywide coordination and cooperation between internal and external partners.** From the public sector perspective, coordination should be made across planning departments and development organizations so that local area goals for housing and employment are met. It is key that the private sector understands the goals of these departments, and is informed of all codes and ordinances that may affect land assembly operations. Coordination includes all the relevant and obvious stakeholders: developers, real estate professionals, lenders, housing authority representatives, citizens, community leaders, and affected public entities.
- **Legal structures that provide some measure of independence from local government.** Independent legal entities (e.g., and economic development authority or urban renewal district) will have more control and flexibility to pursue more narrow land assembly objectives.
- **A robust parcel management information system.** A database such as Metro’s RLIS parcel / taxlot file can help to quickly identify parcel

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<sup>7</sup> Great Lakes Environmental Finance Center, and Maxine Goodman Levin College of Urban Affairs, Cleveland State University. *Best Practices in Land Bank Operation*. Prepared for The Department of Economic Development, City of Cleveland, 2005.  
[http://urban.csuohio.edu/publications/center/great\\_lakes\\_environmental\\_finance\\_center/land\\_bank\\_best.pdf](http://urban.csuohio.edu/publications/center/great_lakes_environmental_finance_center/land_bank_best.pdf)

<sup>8</sup> [http://www.dca.state.ga.us/intra\\_nonpub/Toolkit/Guides/LndAsmbyRedevt.pdf](http://www.dca.state.ga.us/intra_nonpub/Toolkit/Guides/LndAsmbyRedevt.pdf)

characteristics and boundaries. Being able to determine parcel size and contiguity is key. One of the barriers to land assembly is clear title, and databases with clear and accurate legal ownership history can streamline the acquisition process.

- **Integration of land assembly and banking with a long-term strategic visioning.**
- **Limited or streamlined processes for eminent domain and judicial foreclosure.** Both of these processes are extreme solutions and unpopular with both citizens and elected officials unless there is a very strong public purpose. Best practice probably does not use these tools. When unavoidable (e.g., hold-out parcels and very strong public purpose with no alternatives with comparable cost-effectiveness) then the process should be clear, well-documented, and streamlined.
- **Flexible, diverse funding sources.** If an entity is created for managing and redeveloping assembled parcels, having stable financing sources is key. Reliance on one source is too risky, and if one source falls through, finding another public or private source such as a foundation can be a long-term process.

Most of those recommendations are noted in the literature and are general and common sense. To go deeper, we interviewed developers with experience with land assembly about both issues and best-practices for resolving them:

- **Streamline the process.** Institutional lenders can lose patience while waiting for developers to negotiate purchase agreements with property owners. The longer it takes it assemble a site, the riskier the deal becomes: one or more owners are more likely to hold onto full interest in their property, and developer staff costs accumulate. A solution for developers, of course, is to have the public sector do some, most, or all of the work. For example, urban renewal districts often assemble land and then offer sites for development.
- **Align terms when closing multiple parcels for assembly.** All parcels should be closed as close together as possible. Developers should and probably will not spend time and money on design and due diligence unless they are sure all targeted parcels will close. Any parcel left open for continued negotiation is a liability.
- **The simpler the deal, the better.** Simplicity means assembling as few parcels as possible, and dealing with as few owners as possible. Partnership arrangements, such as horizontal development entities, can become complex as multiple owners have different interests, incentives, and visions for the development.

- **Take full control of parcels for assembly.** Before the real estate market recession began in 2008, equity requirements for borrowers were roughly 10% to 15% of the total development cost. A developer could form a partnership with a landowner who would put the value of his land into the deal for a stake in the final development outcome. The developer would not have to raise much more money to reach the 10% to 15% equity requirement. Today, lenders require roughly 30% to 35% equity, and the land value is a smaller percentage of the requirement. It is probably easier and less risky in most cases to gain full control of parcels from the outset and not form partnership arrangements. Institutional lenders are more willing to lend to a developer who can show the ability to gain full control of all final assembled parcels.
- **Be careful about entering into master planning arrangements.** Master planning can, for instance, obligate a developer to start a new project every other year. This can be risky if the market for new residential or mixed-use development softens. Portland's South Waterfront has seen some luxury condominium towers turn into apartments after the real estate market recession began in 2008.
- **Expect landowners to negotiate a price well above the appraised amount.** Since 2008, property values have diminished and appraisers (with directives from lenders) have been conservative in their valuations. There is now a large gap between what properties are appraised for and the property owner's asking price. In partnership arrangements, this means that land contributions from existing owners are worth less, and more equity is required to secure lending.
- **There are other ways to assemble land besides initial outright purchase.** Full parcel acquisition can be an expensive proposition for both private and public entities in their effort to assemble viable developable sites. A less expensive alternative involves optioning land (described above in Section 4.2.2 of the main report; Section C.2.2.4 of this appendix): *purchasing an option* to buy the property at some later date at some agreed upon price. Options can provide a development entity site control for a long enough period to develop a concept for a site and enhance its chances to succeed while reducing financial exposure at the front end. The Portland Development Commission employed an options approach when assembling land for the Burnside Bridgehead project. Another alternative is a *land swap* for another parcel, usually one already owned by the public or private entity wanting to make the acquisition. Land



swaps involve securing agreement between the swapping parties on many aspects particularly the value of the parcels involved

### **C.3 POLICIES TO REDUCE PROBLEMS CAUSED BY PARCELIZATION**

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If local jurisdictions do not take steps to reduce the *amount* of parcelization by any of the methods described in Section C.1 and C.2 above, can they do anything to reduce the obstacle that parcelization poses for the kind of development desired in urban centers?

Broadly, of course, cities have dozens of policies that they can bring into play to encourage certain types of development by reducing the costs of that development. Ultimately, the developer perspective must get to a bottom line about return on investment. Anything that a local government can do to increase the amount or reduce the uncertainty of revenue (e.g., helping secure federal assistance for low-income renters or buyers of housing products; pre-leasing space for government operations) or reduce the amount or risk to costs (e.g., expedited permitting, including public involvement; reduced development requirements or fees; provision or cost sharing of need infrastructure and amenity; tax exemptions) will make development more attractive.<sup>9</sup> The better the financial pro-forma looks, the more room a developer has to incur the costs of negotiating with multiple owners to find an arrangement that allows a site of multiple parcels to get clear for development.

This appendix does not address everything on the long list of things a local government can do to increase demand or reduce costs for developers. Rather, it focuses on a few policies related directly to costs that parcelization creates. Such policies are hard to separate from policies aimed at land assembly (Section C.2).

Land assembly can be costly – in terms of time and dollars – and may prove too costly for some development proposals. For example, to assemble the public storage parcel that would become Elizabeth Caruthers Park in Portland’s South Waterfront developers negotiated a purchase agreement over a period of almost two years at a cost above the appraised amount. If a developer concludes that parcelized ownership makes the cost of creating a developable site too high relative to anticipated return on investment, and if

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<sup>9</sup> Section 2.1.4 discusses all the factors that can affect a developer’s revenues, costs, and return on investment.

local governments do not take actions to substantially reduce those specific costs, **what public policies can help make small parcels work for development in the absence of land assembly?**

- **Reduce parking requirements.** Surface parking takes up valuable land area on small parcels. On small parcels and for certain types of development, it may be impossible to provide the on-site parking required by codes without building structured parking. A parking space in a parking structure costs, on average, five to ten times more than a surface space. The difference can easily add 10 percent or more to the full cost of a residential, retail, or office development project, which is enough to eliminate a developer's typical fee.

Reducing the number of parking spaces required per residential unit or per commercial square foot basis reduces the cost of development. Such reductions are especially helpful if they eliminate the need for structured parking.

Such reductions are also consistent with regional and many local plans that want to emphasize mixed-use and walkable development, and the ability to reduce trips by automobile (and, thus, reduce congestion and air emissions).

But those benefits are not without costs. The loosening of parking standards may be a point of indifference to one- and two-person households that are mainly renters, may own one car or none, and looking for affordable rents in close-in neighborhoods that allow transportation by non-auto modes of travel. But homeowners in those same neighborhoods may oppose the reduced parking based on the belief that some of the occupants will still have cars and will now be competing for already limited parking spaces on streets. A proposed four-story apartment building at SE Division and SE 37<sup>th</sup> Ave is being opposed by local residents for this reason.

- **Relax building restrictions.** Developers can only exact rent from usable building square footage. There are many fixed costs to development that may not increase at all or at the same rate as the size of the development (for example, permitting, design, on- and off-site requirements for infrastructure and amenity). That means that the price per unit or square foot can decrease with scale. That can be true for the construction costs as well. Once a developer is into a multi-story building, he may want to go to the maximum density possible before new levels of costs are incurred (e.g., structural issues that require a shift from wood to steel).

Building height restrictions reduce the amount of usable building square footage a developer can build, and the square footage lost

probably costs less on average than the square footage allowed. By relaxing building height restrictions in the zoning code (and / or FAR standards), local governments may allow developers to improve their return on investment without changing the size of their parcel or building footprint.

As with parking, taller buildings may be controversial in some neighborhoods. Historically an underlying (if unstated) function of zoning has been to protect single-family neighborhoods. Existing residents may worry about block viewed, reduced sunlight, parking, congestion, “incompatible” neighbors, and more.

Similarly, reduced setbacks and landscaping requirements can increase slightly the amount of leasable space on a given parcel, and reduce some cost, but with the potential effect of being less acceptable to surrounding residents and businesses.

- **Provide off-site the amenities that small parcels cannot provide on-site.** People are buying or renting a building because it delivers a bundle of services: shelter, of course, but also access to good and many employment opportunities, parks, schools, restaurants, and more. As private space gets compressed on smaller parcels (smaller units, smaller yards) they can hold or increase their value if they are surrounded by substitutes (e.g., restaurants, gyms, parks, transit).

These solutions reduce the problems caused by parcelization by making it less costly for developers to use small parcels, or by increasing the returns they can get on a given investment because of increasing value of surrounding amenity.