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Audrey Spalding is a policy analyst at the Show-Me Institute, which promotes market solutions for Missouri public policy.

TESTIMONY

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KANSAS CITY LAND BANK PROPOSAL: LEARNING FROM FAILURES OF THE SAINT LOUIS LAND BANK

By Audrey Spalding

*Testimony Before the Missouri Senate Financial and Governmental
Organizations and Elections Committee*

To the Honorable Members of the Committee:

Ladies and gentlemen, thank you for the opportunity to testify today. My name is Audrey Spalding and I am a policy analyst for the Show-Me Institute, a nonprofit, nonpartisan Missouri-based think tank that supports free-market solutions for state policy. The ideas presented here are my own.

Senate Bill 795 would create a land bank in Kansas City. Proponents have argued that, given the foreclosure crisis,

they have to *do something about vacancy*. I do not dispute the fact that vacancy is a public policy concern. However, there is no evidence that the land bank legislation proposed here will be an effective mechanism for getting vacant property back into private, productive use, nor is there any apparent evidence that the system of dealing with vacant property already in place in Kansas City is inadequate.

Failure in Saint Louis

We have had a land bank for 40 years in Saint Louis. The

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There already is a government entity that deals with vacant property in Kansas City. The Jackson County Land Trust currently takes ownership of tax-delinquent properties that fail to sell at tax auction, and works to sell them.

Missouri Legislature authorized that Saint Louis land bank, also known as the Land Reutilization Authority (LRA), in 1971.¹ It owns about 10,000 parcels, making it the largest land holder in the City of Saint Louis. The Saint Louis land bank's track record should be considered before creating a similar entity in Kansas City.

Show-Me Institute research has found that for eight years, from 2003 through 2010, the Saint Louis land bank rejected almost half of all formal offers to purchase its property. The most frequent reason for rejection was that the property was being "held for future development." Sadly, the hoped-for future development rarely materializes, and in just eight years, the Saint Louis land bank has turned down offers to purchase more than 2,200 different parcels.²

The Existing Jackson County Land Trust

Furthermore, there already is a government entity that deals with vacant property in Kansas City. The Jackson County Land Trust currently takes ownership of tax-delinquent properties that fail to

sell at tax auction, and works to sell them.

There does not appear to be any evidence that the Jackson County Land Trust is doing a poor job of getting vacant property back into private, productive use. In fact, it seems to be doing quite well. In addition to my testimony, I am submitting a list of the properties that the Jackson County Land Trust sold in 2011.

As a percentage of property owned, the Jackson County Land Trust sold more than twice as much property than the Saint Louis Land Bank sold in 2010, the most recent year for which I have information.³ Based on public information available from the Michigan land bank, which proponents of this legislation point to as a gold standard, the Jackson County Land Trust appears to be doing as good, if not a better job, with less money and fewer employees.⁴

The bill you are considering today would transfer all property within Kansas City from the Land Trust to a newly-established land bank. Under this legislation, the Kansas City Land Bank would have the powers to take on unlimited debt,

bid against private buyers at tax auction, and discriminate among offers to purchase its property.

Unlimited Debt

Frank Alexander, author of “Land Bank Authorities: A Guide for the Creation and Operation of Local Land Banks” has written that “...the ultimate success of a land bank is best measured by its own demise.” Yet, SB 795 would grant land banks the power to “[incur] debt, including, without limitation, borrowing of money and the issuance of bonds, notes or other obligations...” (SB 141.981.6 (3))

The ability to issue bonds and take on other forms of debt creates a real risk that the Kansas City Land Bank will exist indefinitely. The problem faced in Kansas City is that of returning vacant property to private, productive use. Land bank ownership necessarily means that the property is not in private, productive use. If the land bank holds a great deal of debt, then how, politically, could it be shut down? Would Kansas City be willing to pay off the land bank’s debts? It would certainly be an unpopular move.

Moreover, this legislation specifies that debt that the land bank incurs will not count towards the debt limit of Kansas City (SB 141.994.2). This would further restrict Kansas City’s ability to shut down the land bank in the event of its failure.

Bidding Against Private Buyers

A Kansas City Land Bank that this legislation would establish would have the power to *bid against would-be buyers at tax auctions* (SB 141.984.3).

During the Missouri House hearing of this bill, the House sponsor suggested that the land bank would be on a level playing field with private buyers, with all bidding to purchase property. In reality, private purchasers have limited funds, and could be out-bid by a city land bank.

We have seen this in Saint Louis. The *Riverfront Times* reported this issue in 2005.⁵ In one case, the Saint Louis land bank bid up a property to more than \$42,000 over the opening bid. The man who had hoped to purchase a two-family flat could not afford the price, and the city purchased the property.

As a percentage of property owned, the Jackson County Land Trust sold more than twice as much property than the Saint Louis Land Bank sold in 2010, the most recent year for which I have information.

Allowing a land bank to establish a hierarchy of priorities invites discrimination among proposals to purchase property based on subjective judgment. I spoke with Jackson County Land Trust Commissioner Michael Hunter and asked him if the Land Trust rejects offers for subjective reasons, such as hoping for a “better use.” They do not.

“Who’s going to outbid the city? They’ve got the money to outbid nearly anyone,” he told the *Riverfront Times*.

Discrimination Among Buyers

This bill would allow Kansas City to establish a hierarchical ranking of priorities for the use of real property (SB 141.985.5). This seems to invite discrimination among buyers of the kind we have seen time and again in Saint Louis. Would-be buyers are turned down because “...the parcels are being held for planned unified development,” or because “the parcels should be held as part of a larger development site,” or because “the proposed residential use does not comply with the Land Use Plan.” And that is just a sample of recent rejections.

The story of 1252 Academy in Saint Louis illustrates this issue well. The Saint Louis land bank turned down eight different offers to purchase the property from people who had a history of developing property in the area, including family-owned companies. Those people who made offers submitted letters detailing how much of their own

savings they were prepared to use to rehab the property. The land bank turned down those offers, ultimately in favor of a nonprofit that proposed a large-scale development that would entail millions of dollars in public subsidies.

The nonprofit did note that it was prepared to put forward \$591 of its own money toward the redevelopment.

That was the offer that the Saint Louis land bank chose to accept, viewing that proposal somehow as a higher priority than proposals to turn the property into a barbeque restaurant or office space. Sadly, the nonprofit effectively folded, the property was not sold, and 1252 Academy remains vacant.

Allowing a land bank to establish a hierarchy of priorities invites discrimination among proposals to purchase property based on subjective judgment. I spoke with Jackson County Land Trust Commissioner Michael Hunter and asked him if the Land Trust rejects offers for subjective reasons, such as hoping for a “better use.” They do not.

The Illinois Rejected Similar Land Bank Legislation.

In 2010, the Illinois Legislature rejected similar legislation to what you are considering. The concerns raised were similar – and in some cases identical – to the concerns I am bringing to your attention today.

The Illinois Association of Realtors, in its public appeal to the Illinois Legislature, raised concerns about a land bank that would have the power to issue debt, acquire property for any purpose, and the power to enter into intergovernmental cooperation agreements in order to acquire property outside of land bank jurisdiction. Those abilities, the association wrote, were a “huge delegation of power.” I am submitting a copy of the association’s concerns in addition to my testimony.

Furthermore, the association wrote that “given the powers that municipalities already have, this is just plain overkill.”

Based on the information available about the Jackson County Land Trust, that appears true here. The Jackson County Land Trust appears to be doing an adequate

job, while outperforming both the Saint Louis land bank and the Flint land bank at a lower cost. It does not take out debt, it does not bid against private buyers, and it does not discriminate among offers to purchase vacant property.

Furthermore, Saint Louis is a cautionary tale. I can go on about the policy failures we have seen in Saint Louis. Indeed, those are detailed in the paper I have submitted with my testimony today. I hope that Kansas City can avoid what has happened in Saint Louis. I hope that both sides of our state can learn from one another’s policy successes and failures.

But I would like to make a final point: Passing legislation to create a land bank in Kansas City will allow the city government to hold land for future development. And by doing that, the city will be betting against the very residents that it is supposed to help.

Why create an agency similar to one that has failed in Saint Louis? Why pin development hopes and dreams on an old idea with some additional, expansive powers?

I am happy to answer any questions that you may have.

The Jackson County Land Trust appears to be doing an adequate job, while outperforming both the Saint Louis land bank and the Flint land bank at a lower cost.

Why create an agency similar to one that has failed in Saint Louis?

NOTES

¹ Mo. Rev. Stat. 92.875

² Spalding, Audrey and Thomas Duda. "Standstill: Is Saint Louis Hindering Development By Waiting for Large-Scale Miracles?" April 2011.

³ According to information received from the Land Trust, the Land Trust sold approximately 200 properties in 2011 from an inventory of 3,200, for a sale rate of 6.28 percent. According to our resources, the LRA's sales rate is about 2.5 percent.

⁴ The Genesee County Land Bank's sales rate for 2010 appears to be between 4.71 percent and 6.46 percent, depending on whether you consider the property that the land bank holds in its inventory or the property that it manages.

⁵ Garrison, Chad. "Land Grab: Why does the city undercut would-be developers? Don't ask." *Riverfront Times*. June 1, 2005.

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