



Other people's money: Certain use of federal stimulus cash by land banks "presumed" eligible

June 25, 2021

During the past decade, county land banks ramped up operations across Ohio largely employing one-time cash. The Hardest Hit Fund (HHF), sourced from Ohio's share of mortgage industry settlement payments related to the Great Recession, was a catalytic funding source for demolishing thousands of vacant and abandoned residential structures throughout the state. HHF served its purpose, and served it well. However, as the remaining program dollars are drawn down, many county land banks are facing existential funding questions.

Developers struggling to get projects to "pencil out" often approach economic development organizations for funding solutions. County land banks would be well-served to insert themselves into development projects as capital-stack funding partners.

Two attributes of county land banking makes these entities indispensable to development project funding discussions. (1) County land banks are community improvement corporations under Ohio law (Revised Code Chapter 1724), serving as agents of their respective counties and local subdivisions; meaning, (2) they can readily access other people's money, including new federal stimulus funding.

In March 2021, President Biden signed into law the American Rescue Plan Act (ARPA) of 2021 (H.R. 1319, Public Law 117-2) which appropriated \$130.2 billion in local fiscal recovery funds to counties, metropolitan cities and non-entitlement units of local government. Such fiscal recovery fund payments may be directed to certain purposes, two of which land squarely within county land banks' wheelhouse. (See ARPA, Title IX, Subtitle M, Sec. 9901, Sec. 603.)

First, ARPA directs funding recipients to respond to the COVID-19 public health emergency or its negative economic impacts. Guidance recently published by the U.S. Treasury encourages the use of local fiscal recovery funds in qualified census tracts in the development of affordable housing to increase supply of affordable living units. The regulations go on to say such development (read construction) of affordable housing is a presumed eligible use of funds. County land banks are wholly involved in addressing the widespread lack of housing in Ohio through their efforts to remove blighted structures, place parcels back in taxpaying status, and assemble swaths of properties. By looking to help fund construction of housing units in qualified census tracts, county land banks are uniquely situated to deploy ARPA cash to facilitate local housing solutions.

Second, ARPA enables funding recipients to provide government services to the extent of a reduction in their revenue caused by the pandemic. The same federal regulations place few restrictions on such use of local fiscal recovery funds, granting broad latitude to recipients to fund government services. County land banks have a strong argument to approach their local subdivisions as strategically focused drivers to direct ARPA cash – to the extent of any revenue reductions – to address blight and assemble sites for future development.

Authors



Jeffrey D. Harris
Of Counsel

Columbus
614.227.4860
jharris@bricker.com