

# City of Detroit

## OFFICE OF THE AUDITOR GENERAL

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Mark W. Lockridge  
AUDITOR GENERAL

### MEMORANDUM

**DATE:** March 22, 2017

**TO:** Honorable City Council

**FROM:** Mark W. Lockridge, CPA   
Auditor General

**RE:** Special Report Highlighting Concerns Relative to the City's Demolition Programs

**CC:** Mayor Mike Duggan  
John Hill, Chief Financial Officer  
Tyrone Clifton, Director, Detroit Building Authority  
Carrie Lewand-Monroe, Executive Director, Detroit Land Bank Authority

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Attached for your review is a Special Report highlighting concerns relative to the City's demolition programs. This report is based on ongoing audit work performed in conjunction with the Audit of Demolition Activities as requested by City Council President Brenda Jones on October 8, 2015.

This is a Limited Scope Performance Audit that includes the period from January 1, 2014 to December 31, 2016.

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**Background and Purpose**

The purpose of this Special Report is to bring timely and relevant information to your attention as it relates to the City's demolition programs.

This Special Report highlights major areas of concern relative to the:

- Dissolution of the Approval Committee in response to a lawsuit against the Detroit Land Bank Authority (Land Bank) for violating the Open Meetings Act;
- Request For Proposal for Back End demolition activities only (i.e. Debris Removal, Open Hole Completion and Site Finalization);
- Pending lawsuit filed by a contractor against the Land Bank, and the Temporary Restraining Order prohibiting the Land Bank from soliciting bids for demolition on certain properties;
- Preliminary findings against the Land Bank and the Detroit Building Authority (DBA), which show escalating administrative costs amid weak internal financial controls, along with inadequate program management and oversight.

**I. Dissolution of the Approval Committee**

As a result of the suspension and reinstatement of the Hardest Hit Funds Program (HHF) blight elimination activities, the Land Bank adopted a Demolition Program Policy which outlined a "Pre-contract Review" process. The process was established to specifically address external audit findings involving the Land Bank's practice of redistributing (or "smoothing") costs among properties in a contract. Prices were changed or redistributed to achieve a final price where the cost of demolition would not exceed the Michigan State Housing Development Authority's (MSHDA)/Michigan Homeowner Assistance Nonprofit Housing Corporation's (MHA) cap of \$25,000 per property.

The Pre-contract Review process required that the Approval Committee meet and approve/reject the inclusion of properties with an estimated or actual total pricing of \$35,000 or more, and of properties with a total price falling outside a calculated per property total cost reasonableness range. The Approval Committee is a three-member group, comprised of one representative (each) from the Land Bank, DBA, and the City's Office of the Chief Financial Officer (OCFO).

On March 10, 2017, the Michigan non-profit corporation - "A Felon's Crusade for Equality Honesty, and Truth" (the Plaintiff), filed a lawsuit against the Land Bank alleging violations of the Michigan's Open Meetings Act and the Freedom of Information Act (FOIA) based largely on how the Land Bank (the Defendant) reviewed bids to demolish properties. Specifically, the Plaintiff noted that the Land Bank "failed to post public notices of the Approval Committees meetings,

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the meetings were not open to the public, and the public was not allowed to attend, to ask questions, or to engage in the deliberations.”

The Court granted the Plaintiff a motion for a Temporary Restraining Order and ordered a show cause hearing set for March 16, 2017. The Court required the Land Bank to bring the following items to the hearing:

Any and all written notes, emails, minutes, audio recordings from all committee meetings held by the Approval Committee as well as copies of all resolutions and/or rules that established and authorized the creation of the Defendant Approval Committee.

On March 14, 2017, the Land Bank’s Board of Directors passed a resolution (Resolution # 03-01-2017), which stated “In short ... resolves the legal challenges the Plaintiff seeks to redress in this matter.” The Resolution set forth the following:

- The Approval Committee formed pursuant to the HHF Policy Resolution (also known as the “Demolition Program Policy”), was dissolved and terminated;
- The Land Bank’s Executive Director was authorized to execute any ancillary agreements, and documents necessary or appropriate in connection with the HHF Program, provided that they are “in substantial compliance” with the Land Bank’s policies;
- The policy adopted in the HHF Policy Resolution is hereby rescinded in favor of a revised policy (entitled the “First Amended Demolition Program Policy”);
- The Land Bank agreed to comply with the Open Meetings Act for all matters to be reviewed by a committee.

The language in the amended policy only requires the Executive Director to obtain “at a minimum,” advice and counsel from one staff member from each of the OCFO, DBA, and the Land Bank’s Demolition Team. In essence, and as stated, the resolution effectively eliminated the Approval Committee meetings.

We met with DBA management on March 16, 2017, and asked their opinion on the dissolution of the Approval Committee. DBA emphatically responded that the committee was very much intact, still in force, and that they would continue to meet and review funding for properties whose costs exceed the thresholds.

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Concerns**

Processes are changing rapidly as a result of the Land Bank and/or DBA's reactions to pressures or events from external organizations such as MSHDA/MHA, attorneys, etc.

The Demolition Program Manager, DBA, was unaware of the change to a vital process that was established to insure demolition costs were appropriate and properly funded.

**II. Request for Proposal for Debris Removal, Open Hole Completion and Site Finalization**

The Land Bank/DBA issued a Request for Proposal (RFP) Group #3.14.17A, for "Debris Removal, Open Hole Completion, and Site Finalization" on March 14, 2017. While reviewing this RFP, we noted the following:

**a. Scope of Services**

The RFP is different in nature and in its scope of services, as it calls for "Back End" demolition activity only. Debris removal, open hole completion, and site finalization occurs after the structure has been abated and knocked down. On March 16, 2017, during a meeting with DBA management, we asked about this RFP. They informed us that this is a "pilot program" to see if cost and time efficiencies could be gained by decoupling the "back end" of demolition from the front end (i.e. - hazardous materials abatement and knock down of the structure.)

**b. Lack of Public Bid Opening**

The original RFP stated that the DBA would not hold an open reading for the bid responses. This would have been a stark departure from the usual procedures and other RFP's that call for a public opening or reading of the bids received. This practice is a key component of the Land Bank's and the City's competitive practices.

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We noticed that on March 21, 2017, the Land Bank posted an addendum to the RFP, stating that they would host a public bid opening/reading.

c. “Front End” Status of Properties

The RFP solicited bids for debris removal, open hole completion and site finalization for nineteen (19) properties. We determined that the structures on the properties were knocked down in July 2016, approximately eight months ago, and still remain with open holes. Further investigation revealed that:

- There is no evidence in the Land Bank’s electronic activity files, indicating that Building Safety Engineering and Environmental (BSEED) issued the required Notice to Proceed. This notice is required prior to beginning of any actual demolition work;
- Ten of the nineteen properties (or 52.6%) had no open hole inspection. BSEED indicated that they were unaware that the structures had been demolished because it is the contractor’s responsibility to notify them and request the open hole inspection;
- Nine of the nineteen properties (or 47.4%) have evidence of passing BSEED’s open hole inspection. These same nine properties were re-inspected in December 2016 by BSEED, and the notes in the inspection tracking system read - “have open holes, fenced, and not backfilled.” Demolition contracts require evidence of completed backfill within forty-eight (48) hours of the passage of the open hole inspection. Yet these holes are still open after eight months after the first inspection;
- The City of Detroit’s Demolition Tracker (Demo Tracker) application on the Open Data Portal, shows a total price for demolition. The price is also equal to the bid price recorded in the Land Bank’s demolition database. The average cost of demolition for these properties is \$13,158 according to both databases. However, only a portion of demolition costs have been posted to the Land Bank’s electronic records as incurred, and we believe those costs represent the asbestos survey only. The asbestos survey records the amount of hazardous material in a structure; it is required prior to demolition and the document is made available to the demolition contractors. The survey is conducted by asbestos surveyors/contractors who are separate from, and are not the same as, demolition contractors who perform the actual abatement of hazardous materials.

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Regarding the costs associated with this RFP, we are in the process of determining:

- i. If any more costs have been paid to the contractor for the actual knockdown of structures;
  - ii. The RFP and source of funding for the “Front End” demolition activities;
  - iii. The proposed source of funding for the RFP for the “Back End” demolition activities.
- d. OAG Site Visits  
On March 17, 2017, we visited the nineteen properties and found them in various stages of demolition:

**Three Properties Had Open Holes Filled With Structural Debris**

**18082 Biltmore**



**2270 Tuxedo**



**2248 Lawrence**



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**Sixteen Properties Had Partially Standing Fencing, Open Holes,  
With Most Filled With Water**

(Two of the sixteen properties are pictured below.)

**1974 Tuxedo**



**1944 Tuxedo**



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First and foremost, there are (at least) nineteen properties that present a clear and present danger to the community. We are concerned that there may be additional sites across the City in this same hazardous condition, which puts all the residents of Detroit at risk.

This is clear evidence of non-compliance with contract and program requirements.

The Demolition Program Manager, DBA, referred to decoupling demolition activities as a "pilot program." Our analysis of the timeline surrounding the demolition activities does not support this claim. This demonstrates a lack of oversight and good program management.

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**III. Pending Lawsuit and Temporary Restraining Order Prohibiting The Land Bank From Soliciting Bids For Demolition On Certain Properties**

The Farrow Group (a demolition contractor) filed a lawsuit against the Land Bank and on March 13, 2017, they were granted a Temporary Restraining Order prohibiting the Land Bank from soliciting bids for 153 specifically named properties.

We are still in the process of gathering details surrounding the reason for the original lawsuit. The demolition contracts were awarded in July 2016, just prior to the suspension of the Land Bank's HHF Blight Elimination program by the US Treasury and MSHDA/MHA. The properties were put back into the demolition pipeline in January 2017. To date, based on a sample review, there are no other documents relating to demolition activity beyond the asbestos survey.

The Show Cause Hearing for this pending lawsuit is set for March 30, 2017 in Wayne County Circuit Court.



The Demolition Program Manager, DBA, was unaware of the legal actions against the Land Bank and the potential impact of ongoing demolition activities.

**IV. Preliminary Findings Indicate Escalating Administrative Costs Amid Weak Internal Financial Controls And Inadequate Program Management And Oversight**

Our preliminary findings indicate escalating administrative costs in both the Land Bank and DBA. We question the ability of the Land Bank and DBA, as it relates to demolition program management activities, to be self-sustaining in the short and long term:

a. DBA as the Demolition Program Manager

Our preliminary analysis shows that in their capacity as the Citywide Demolition Program Manager, DBA's administrative costs continue to rise, and their ability to reimburse the City is questionable:



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- To date, there is a lack of evidence that DBA has complied with or adequately fulfilled their role as the Program Manager, and there is a clear lack of oversight for Citywide demolitions. The Land Bank and the City continue to operate with different policies and procedures for demolitions ranging from the qualifying of vendors, the handling of RFP's, scoring of bids, etc.
- From fiscal year 2013-2014 through fiscal year 2016-2017 (as of December 2016), DBA's Cumulative Net Tax Cost to the City's General Fund could be as high as \$3.4 million, with cumulative unreimbursed labor costs of \$1.6 million. This comes on the heels of DBA requesting increased funding from the City in their fiscal year 2017-2018 budget for \$1.2 million to cover additional administrative and labor related costs;
- Not included above is the DBA's outstanding Demolition Advance from the City for \$0.3 million granted in fiscal year 2013- 2014 to jump start their program management activities. We questioned DBA about their plans to repay the City, management responded that this "may end up being a subsidy." However, a staff person in the OCFO stated that it is not a subsidy and that the advance should be and is expected to be repaid.

b. Land Bank Administrative Costs

Similarly, the Land Bank's administrative cost continue to escalate amid weak internal controls and increased legal actions:

- Preliminary findings show poor internal controls over financial transactions in the Land Bank specifically as it relates to bank account reconciliations from January 2014 through December 2016;
- In just three years, salaries in the Land Bank have escalated and almost doubled from \$2.6 million (January 2014 to December 2014) to over \$5.0 million based on the Land Bank's June 2016 request to the City. The funds were transferred to the Land Bank against their fiscal year 2016-2017 General Fund Subsidy to cover the full year payroll costs. The Land Bank's total subsidy from Quality of Life funds for fiscal year 2016-2017, is \$11.8 million with \$6.8 million remaining available.

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- The following is a general overview of funding that the Land Bank has received:

<b>Source of Funds</b>	<b>Type/Purpose of Funding</b>	<b>Amount of Funding (Millions)</b>
US Treasury MSHDA/MHA	Hardest Hit Funds	\$258.6
Budgeted Blight Elimination Funding from the City's Quality of Life and Restructuring Funds	Blight Reinvestment Fiscal Years 2014-2016	26.3
Demolition Advance Fund (Revolving Line of Credit)	Loan (Outstanding Amount)	15.0
Budgeted Blight Elimination Funding from the City's General Fund	Blight Reinvestment Fiscal Year 2016-2017	11.4
City General Fund	MSHDA Escrow Account Deposit (To Date)	10.0
Interest Free Advance from the City	Loan	6.5

*Note: The above schedule does not include additional funding such as loans and grants from private sources, federal funds from the Department of Housing and Urban Development, and other City funds.*

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Preliminary findings indicate escalating administrative costs amid weak internal financial controls and inadequate program management and oversight.

In closing, it should be noted that these same concerns were first expressed by the Legislative Policy Division (LPD):

- Regarding DBA as Demolition Program Managers, during Council's review of the proposed Demolition Management Agreement between the City and DBA, LPD urged Council to ask and seek an answer to:

Specifically what value does DBA add to the roles of the Department of Housing and Revitalization, BSEED, Planning and Development Department, and subcontractors in the performance of the activities covered by the agreement?

*Source: Memorandum to City Council, April 6, 2015, Request For Concurrent Resolution Regarding Detroit Building Authority (DBA) Demolition Management Agreement.*

- Regarding the need for ongoing subsidies to the Land Bank, LPD wrote in their review of the Land Bank's fiscal year 2015 and fiscal year 2016 budgets:

It is quite apparent that the City will need to continue subsidizing the DLBA [Land Bank] for operating purposes in the future beyond FY 2016, as long as the DLBA is responsible for providing a major part of the blight remediation activities on behalf of the City of Detroit, and is responsible for providing residential services formerly provided by the Planning and Development Department, such as the maintenance of the City's residential property inventory side lot sales, direct sales, auction sales, etc. In addition, the DLBA is responsible for maintaining tax foreclosed properties located in the City of Detroit that were transferred from Wayne County to the DLBA. Consequently, operating costs now loom largely for the DLBA, and without enough operating revenues being generated by the DLBA to operate self-sufficiently, there will be an ongoing need for a subsidy from the City for the DLBA to run sufficiently.

*Source: Memorandum to City Council, May 5, 2015, Review of the Land Bank's FY 2015 and FY 2016 Budgets.*