

Washington State Housing Finance Commission (WSHFC)

Entry Name: Land Banking Legislative Campaign

Successes: The legislative campaign to create the Land Acquisition Program (originally called a “land banking program” was successful in the 2007 Washington legislative session. The campaign created a new Land Acquisition Program for nonprofit housing developers to compliment the state’s Housing Trust Fund and other affordable housing programs. The program allowed them to buy land and hold it for up to five years while being charged only a 1% deferred interest cost until the land was developed. The development had to be completed within eight years. If the land was not used for the intended purpose, the purchaser had to pay market interest rates on the loan or transfer the property to another nonprofit developer.

Program Need: With rapidly rising land costs and a diminishing supply of developable land, particularly in Western Washington, site acquisition for affordable housing is very difficult. Nonprofit developers often find it very challenging to compete in the private market when attempting to purchase land for affordable housing. For those public and nonprofit developers attempting to provide affordable housing to residents in Washington, there was no low cost financing that could be used to “bank land” for future housing development. When property did become available, the opportunity to purchase it was short-lived and did not allow time for nonprofit developers to apply for and receive public funds for site acquisition. Very few nonprofit developers have the resources to immediately purchase land when it becomes available and then hold it for future development. While some sources of land acquisition money were available, the high interest rates charged, along with property taxes, made the carrying-costs prohibitive. Creating a revolving loan fund with a low interest rate specifically for this purpose was a significant need in Washington.

The Legislative Campaign Process and WSHFC Involvement: The Commission was approached by state Representative Eric Pettigrew in the fall of 2006 for suggestions for housing legislation that would meet a significant need, to be introduced in the 2007 legislative session. We provided five ideas, including the idea for a “land banking” program. Rep. Pettigrew asked us to draft the initial legislation and provide a summary of the problem and how it would be addressed by the legislation. After review, Representative Pettigrew decided to make the land banking legislation one of his priorities for the session. Using his name, we had the draft legislation properly prepared by the Code Reviser’s office prior to session and then, at the request of Rep. Pettigrew, helped obtain sponsorship signatures from other members of the legislature.

Once the bill was introduced, we met with House Committee staff and helped them understand the purpose and need for the bill and provided them with examples and information for the bill summary that was presented to the Committee. We also requested that the bill be scheduled for a hearing and organized the panel of housing developers that spoke in favor of the legislation. Rep. Pettigrew appeared at the Committee hearing to introduce the panel and speak in favor of the bill. Following the hearing, we contacted individual committee members about the bill and organized other support for the bill from the Low Income Housing Alliance and other nonprofit housing groups. Once it was passed out of Committee, Rep. Pettigrew worked with Rules Committee members and House leadership to have it scheduled for action on the House floor and coordinated floor support for the bill with majority leadership.

While the bill was being considered by the House, we met with legislative staff and the Committee Chair from the appropriate Senate Committee and explained the bill to them and requested that the bill be scheduled for an early hearing once it passed the House. When the bill crossed over to the Senate, we again organized the panel to testify in support of the bill,

Washington State Housing Finance Commission (WSHFC)

Entry Name: Land Banking Legislative Campaign

made sure Rep. Pettigrew was available for the hearing and worked with Committee members to obtain the votes necessary to have the bill voted out of Committee. Once out of the policy committee, we worked the Rules Committee to have the bill pulled from Rules for action on the Senate floor. Once again, we worked with Senate leadership to have the bill scheduled for action by the Senate and with floor leadership to be sure we had the floor votes to pass it.

Rep. Pettigrew negotiated with House leadership to put money in the House budget to fund the program. He was originally successful in having \$5 million put in the House budget. This amount was negotiated down to \$1 million with the Senate and remained in the budget passed by both the House and Senate. Once the budget was passed, we worked with the Governor's office to request that the Governor sign the bill creating the Land Acquisition Program and leave the \$1 million appropriation in the final budget. The Governor agreed to do both, thereby creating and funding the new Land Acquisition Program.

Innovative techniques that were used by WSHFC to achieve this legislative victory included:

- Ironically, at the time the bill was introduced, Rep. Pettigrew was no longer a member of the House Housing Committee, which he had served on for two years. He had moved to the Capital Budget Committee which dealt with program funding and became an important committee assignment during this legislative campaign.
- With Rep. Pettigrew no longer a member of the House Housing Committee, the Commission had to take larger role in lobbying the bill through both houses of the legislature.
- The Bill was promoted as requiring no administrative cost to state because the Commission, which does not receive state operating funds, agreed to administer the program under contract with the state Housing Trust Fund and absorb the operating costs.
- The Commission also agreed to leverage other resources to grow the fund if the program was created. The Commission provided examples of other revolving loan funds that had been created with a small appropriation and then grown to meet demand.
- The Commission had to demonstrate to the legislature that a true need for the program existed in Washington. To accomplish this, the Commission assembled nonprofit housing developers to testify in favor of the bill and lobby legislators by citing examples of land they had lost for lack of available funds and demonstrating how rapidly land costs were increasing, not only in the Seattle area but across the state.

Obstacles that were overcome included:

- There were three attempts to amend the bill to allow for-profit developers to participate in the program. Two were defeated in committee and one attempt was defeated on the House floor.
- In order to obtain sufficient support to pass the bill on the House floor, Rep. Pettigrew had to agree to amend the bill to add a priority for Self Help housing programs to use 40% of the fund to acquire land for their programs. With Commission help, Rep. Pettigrew negotiated acceptable language which was added to the bill on the House floor prior to passage.
- There was initial opposition to the bill based on a concern that using \$5 million to "bank" land for later use was taking money away from current affordable housing needs. We had to work with legislators in both houses to help them understand that by investing this money to purchase the land, they were actually saving money by avoiding higher land costs four or five years later. We also argued that land was often only available for a short period of time before it was purchased for upscale housing projects or commercial use and lost to affordable housing development altogether.

Washington State Housing Finance Commission (WSHFC)

Entry Name: Land Banking Legislative Campaign

- There was also an initial concern that nonprofit borrowers would be able to buy parcels of land using the program, hold it for several years and then sell it at a profit instead of using the land for the development of affordable housing. We were able to overcome this concern by putting into the loan documents a requirement that borrowers would have to pay market interest rates established at the time of the loan if they attempted to sell the land without using it for affordable housing; or, they would have to transfer it to another nonprofit housing developer for its intended use.
- The Senate Ways and Means Committee wanted to strip the \$5 million out of the budget altogether. Rep. Pettigrew was instrumental in getting House Speaker Chopp to insist that at least \$1 million be included in the final budget to help create the Land Acquisition Program.

The Commission dealt with opposition by:

- Amending House bill to add a 40% set-aside for “self-help” housing on the House floor.
- Demonstrating that the program would actually lower affordable housing development costs by allowing nonprofit developers to purchase land at its current cost and then “banking” it for development at a later date rather than waiting to purchase the land four or five years later (if it was still available) for significantly more money.
- The Commission agreed to operate the program and absorb the administrative costs rather than causing the state to appropriate more operating funds for this purpose.
- Demonstrating that by limiting the interest rate to 1% and deferring payment until the land was developed; nonprofit developers would be able to afford the carrying costs of banking land until they could develop it, thereby saving money on their final development costs.
- Penalizing nonprofit borrowers that attempted to sell the land for a profit at a later date and not use the land for the development of affordable housing.

Why the Land Banking Legislative Campaign should be considered for an award:

This campaign successfully created a low cost source of funds for nonprofit developers to acquire sites for future development of affordable housing and ultimately save the state money by reducing the cost of development. House Bill 1401 was passed by the Legislature on April 19, 2007 and was signed by the Governor on May 11, 2007.

The Commission was successful in drafting the original legislation, demonstrating the need for the program and demonstrating that the program would save money in the development of affordable housing. The Commission also demonstrated the program could provide more affordable housing in rapidly developing areas where nonprofit developers were competing for land with for-profit developers and the program could be operated without any cost to the state. The Commission successfully overcame several concerns about the program during the legislative process, helped negotiate language for an amendment necessary to pass the House and created additional support for the legislation through the Washington Low Income Housing Alliance and other nonprofit housing organizations. Without these Commissions efforts, this bill would not have been introduced and would not have passed either house of the legislature.

Since the creation of the Land Acquisition Program, the Commission has leveraged the State’s original \$1 million with an additional \$7 million of Commission reserve funds and developed relationships with local commercial banks and nonprofit lenders to support the program. The Commission has received 12 loan applications in the amount of \$5,661,320 and has approved 4 LAP loans for a total of \$1,425,500.

Supplemental Materials: Final Legislation, Weinstein Letter, Testimony Talking Points