

ORDINANCE NO. 2017-11-4444

AN ORDINANCE AMENDING ARKANSAS CITY MUNICIPAL CODE CHAPTER 2 ARTICLE III, BY ADDING A NEW DIVISION 6 TITLED "LAND BANK".

WHEREAS, Kansas Statute authorizes municipalities within the State to create a formal Land Bank to hold title to properties; and

WHEREAS, the City of Arkansas City created its own Land Bank via Resolution prior to the creation of Kansas statute regarding same; and

WHEREAS, Land Banks created under Kansas statute allow cities to manage distressed properties which can become a blight in the community by clearing up title issues to the property, setting aside land for future development, getting parcels back to the open market as quickly as possible, freezing special assessments, removing back taxes (including interest and penalties), and making the properties tax exempt until sold; and

WHEREAS, the Governing Body desires to create a new Land Bank under Kansas statute, to avail itself of these statutory benefits.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ARKANSAS CITY, KANSAS:

Section 1. Arkansas City Municipal Code is hereby amended to create Chapter 2 Article III Division 6, titled "Land Bank", to read as follows:

DIVISION 6 LAND BANK

Section 2-185. Purpose.

The Land Bank Board of Trustees is hereby established pursuant to Kan. Stat. Ann. 12-5901 et seq. The Land Bank Board of Trustees is an independent agency and instrumentality of the City with the primary responsibility and authority to acquire, hold, manage and convey surplus City property and other abandoned, tax-foreclosed or otherwise underutilized or distressed properties in order to convert such properties to productive use.

Section 2-186. Definitions.

For the purpose of this Division the words set out in this Section shall have the following meanings:

City means the City of Arkansas City, Kansas.

Board means the Board of Trustees of the Land Bank.

Bank means the City Land Bank.

Governing Body means the Board of City Commissioners of the City.

Section 2-187. Land Bank board of Trustees; Appointment, Terms and Dissolution.

(a) There is hereby established a Land Bank Board of Trustees. The Board shall be composed of the entire membership of the Governing Body.

(b) The term of office of the Board members shall be coterminous with that member's term of office on the Governing Body.

(c) Primary staff support to the Board will be provided by the City Manager or his or her designee. City staff will provide technical and professional support for Land bank operations; additional support may be provided as necessary.

(d) The Bank may be dissolved by Ordinance of the Governing Body. In such case, all property of the Bank shall be transferred to and held by the City and may be disposed of as otherwise provided by law.

Section 2-188. Land Bank Board; Organization.

(a) The Board shall annually elect a chairperson, vice-chairperson and treasurer. The treasurer shall be bonded in such amounts as the Governing Body may require.

(b) The Board may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualification and duties and fix the compensation of such officers, agents and employees.

(c) The Board shall fix the time and place at which its meeting shall be held. Meetings shall be subject to the Kansas Open Meetings Act, Kan. Stat. Ann. 75-4317 et seq.

(d) A majority of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless taken at a meeting with at least a quorum present.

Section 2-189. Land Bank Board of Trustees; Powers and Duties.

The Land Bank Board shall have the following powers and duties:

(a) To sue and be sued;

(b) To enter into contracts;

(c) To appoint and remove staff and provide for the compensation thereof;

(d) To acquire, by purchase, gift or devise, and convey any real property, including easements and reversionary interest, and personal property, subject to the provisions of this Ordinance and state law;

1. Any property acquired by the City, Cowley County or any other city or taxing subdivision within Cowley County may be transferred to the bank.

2. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this Ordinance or state law.

3. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirements and shall be exempt from any provisions of law requiring a public sale.

4. The fee simple title to any real estate which is sold to Cowley County in accordance with the provisions of K.S.A 79-2803 and 79-2804, and amendments thereto, and upon acceptance by the Board may be transferred to the Bank by a good and sufficient deed by the Cowley County Clerk upon written order from the Cowley County Board of County Commissioners

(e) To rebate all, or any portion thereof, the taxes on any property sold or conveyed by the Bank.

(f) The Board shall assume possession and control of any property acquired by it under this Ordinance or state law and shall hold and administer such property. In the administration of property, the Board shall:

1. Manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;
 2. Compile and maintain a written inventory of all such property. The inventory shall be available for public inspection and distribution at all times;
 3. Study, analyze and evaluate potential, present and future uses for such property which would provide for the effective reutilization of such property;
 4. Plan for and use the Board's best efforts to consummate the sale or other disposition of such property at such times and upon such terms and conditions deemed appropriate;
 5. Establish and maintain records and accounts reflecting all transactions, expenditures and revenues in relation to the bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired; and
 6. Thirty days prior to the sale of any property owned by the Bank, publish a notice in the official City newspaper announcing such sale.
- (g) To exercise any other power delegated to the Bank by the Governing Body.
- (h) To exercise any other incidental power which is necessary to carry out the purpose of the Land Bank, this Ordinance and state law.

Section 2-190. Land Bank Board of Trustees; Operational Requirements.

The Bank shall be subject to the following requirements:

- (a) The Bank shall be subject to the provisions of the Cash Basis law, K.S.A. 10-1101 et. seq., and amendments thereto.
- (b) The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the State of Kansas. No budget shall be adopted by the Board until it has been submitted to, reviewed and approved by the Governing Body. If the Governing Body elects not to ratify the budget, it must reject the plan in its entirety and remand it back to the Board with specific recommendations for reconsideration.
- (c) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the board.
- (d) All records and accounts shall be subject to public inspection pursuant to K.S.A. 45-216 et seq., and amendments thereto.
- (e) Any moneys of the bank which are not immediately required for the purpose of the bank shall be invested in the manner prescribed by K.S.A. 12-1675, and amendments thereto.
- (f) The bank shall make an annual report to the Governing Body on or before January 31 of each year, showing receipts and disbursements from all funds under its control and showing all property held by the Bank. A copy of such inventory shall also be published in the official City newspaper on or before January 31 of each year.
- (g) The Bank shall be subject to statutory requirements for the deposit of public money as provided in K.S.A. 9-1401 et seq., and amendments thereto.

(h) The sale of any real property by the Board, under the provisions of this ordinance or state law, on which there are delinquent special assessments to finance public improvements shall be conditioned upon the approval of the Governing Body.

(i) The Board, for the purpose of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the bank.

(j) Until sold or otherwise disposed of by the Bank, and except for special assessments levied by the City to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the State of Kansas and any other political or taxing subdivision of the state.

(k) Except for special assessments levied by the City to finance public improvements, when the Board acquires property, the Cowley County Treasurer shall remove from the tax rolls all taxes, assessments, charges, penalties and interest that are due and payable on the property at the time of acquisition by the Board.

(l) Property held by the Bank shall remain liable for special assessments levied by the City for public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.

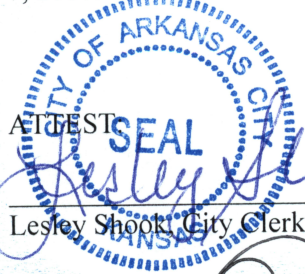
(m) The Governing Body may abate part or all of any special assessments which it has levied on property acquired by the Bank, and the Bank and the Governing Body may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the County Treasurer as of the effective date of abatement.

(n) Any moneys derived from the sale of property by the Bank shall be retained by the bank for the purpose and operations thereof; provided however, that the Board may use all or part of the proceeds from such sale to reimburse the City for delinquent and/or unpaid taxes and special assessments on such property.

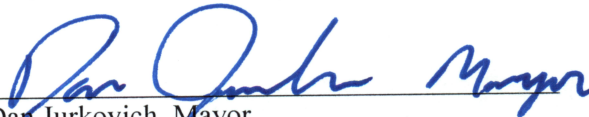
SECTION TWO: REPEAL. Resolution No. 2001-11-2018 and amendments thereto are hereby repealed. Title to all properties currently held by the City of Arkansas City under this Resolution shall be transferred to the City of Arkansas City Land Bank Board of Trustees, which shall hold and transfer title under this Ordinance and Arkansas City Municipal Code Chapter 2 Article III Division 6, titled "Land Bank". City staff is hereby authorized to take all actions necessary to effectuate this transfer, and other actions necessary to effectuate this Ordinance.

SECTION THREE: PUBLICATION; EFFECTIVE DATE. This ordinance, or a summary thereof, shall be published one time in the official City newspaper, and shall take effect and be in force from and after said publication.

PASSED AND ORDAINED by the Governing Body of the City of Arkansas City, Kansas, on November 7, 2017.



Lesley Shook, City Clerk


Dan Jurkovich, Mayor

APPROVED AS TO FORM:


Tamara L. Niles, City Attorney

CERTIFICATE

I, hereby certify that the above and foregoing is a true and correct copy of the Ordinance No. 2017-11-4444 of the City of Arkansas City, Kansas adopted by the governing body on November 7, 2017 as the same appears of record in my office.

DATED: _____

Lesley Shook, City Clerk

RESOLUTION NO. 2017-11-3136

A RESOLUTION ADOPTING BYLAWS FOR THE CITY OF ARKANSAS CITY LAND BANK BOARD OF TRUSTEES AND THE LAND BANK'S POLICY DIRECTIVES.

WHEREAS, the City of Arkansas City adopted Ordinance No. 2017-11-4444, creating a Land Bank pursuant to Kan.Stat. Ann. 12-5901 et seq;

WHEREAS, under that Ordinance, the Land Bank Board of Trustees is authorized to take title to distressed properties, remove impediments to marketable title, and transfer ownership to a third party; and

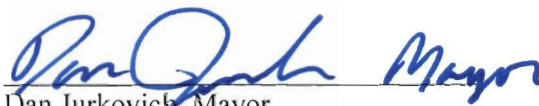
WHEREAS, the City of Arkansas City desires to establish parameters for the operation of the Land Bank and guidance to City staff to implement Land Bank procedures.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF ARKANSAS CITY, KANSAS:

SECTION ONE: The City of Arkansas City hereby approves and adopts the Bylaws of the Land Bank Board of Trustees, City of Arkansas City; and the Land Bank Policy Directives. Both are attached hereto and incorporated by reference as if fully set forth herein.

SECTION TWO: This Resolution will be in full force and effect from its date of passage by the Board of City Commissioners of the City of Arkansas City. City staff is authorized to take all actions necessary to implement the Land Bank and Land Bank Policy Directives within this City.

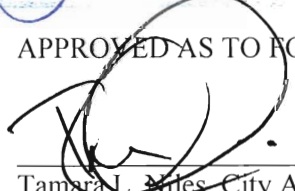
PASSED AND RESOLVED by the Board of City Commissioners of the City of Arkansas City, Kansas this 7th day of November, 2017.


Dan Jurkovich, Mayor

ATTEST:


Lesley Shook, City Clerk

APPROVED AS TO FORM:


Tamara L. Miles, City Attorney

CERTIFICATE

I, hereby certify that the above and foregoing is a true and correct copy of the Resolution No. 2017-11-3136 of the City of Arkansas City, Kansas adopted by the Board of City Commissioners on November 7, 2017 as the same appears of record in my office.

DATED: _____

Lesley Shook, City Clerk

BYLAWS
LAND BANK BOARD OF TRUSTEES
CITY OF ARKANSAS CITY, KANSAS

ARTICLE I

PURPOSE AND ORGANIZATION

The purpose of the Land Bank shall be to efficiently acquire, manage and transform vacant, abandoned, nuisance, dangerous, and/or tax-foreclosed property into productive use in conformance with Kansas statutes and City Ordinance. The Land Bank shall be governed by a Land Bank Board of Trustees (hereinafter referred to as "the Board"), which consists of the Board of City Commissioners of the City of Arkansas City, Kansas.

ARTICLE II

POWERS, DUTIES, AND RESPONSIBILITIES OF THE BOARD OF TRUSTEES

The Board shall have the powers and duties described in applicable Kansas Statutes and City Ordinance.

ARTICLE III

MEETINGS OF THE LAND BANK BOARD OF TRUSTEES

SECTION 1. Unless otherwise established by resolution of the Board of City Commissioners, the Board shall meet at least two times per calendar year: the second meeting of the Board of City Commissioners in January to receive the annual report, and the second meeting of the Board of City Commissioners in July to establish the next year's budget. Special meetings may be called by the Chairperson of the Board, by a majority of the Board members, or by resolution of the Board of City Commissioners. Meetings are subject to the requirements of the Kansas Open Meeting Act, K.S.A. 75-4317 et seq., and amendments thereto.

SECTION 2. A quorum shall consist of a majority of the members of the Board. Business of the Board shall be conducted by majority vote of the members present once a quorum has been established. There must be quorum present before the Board may take any formal action but the Board may discuss items of business at a regular or special meeting in the absence of a quorum. No action of the Board shall be binding unless taken at a meeting at which at least a quorum is present.

SECTION 3. Members of the Board shall be subject to the provisions of the laws of the State of Kansas regarding conflicts of interest of city officers and employees, including but not limited to, K.S.A. 75-4301 et seq., and amendments thereto. If an agenda item represents the appearance a conflict of interest for any member of the

Board, that member shall declare a conflict of interest and not participate in the discussion or vote on that item. Such member will be considered present for quorum purposes, but absent from voting on that specific item.

ARTICLE IV

OFFICERS AND THEIR DUTIES

The officers of the Board shall be as follows:

Chair, who shall be the same person as the Mayor and shall preside at all meetings of the Board and shall sign, execute, act, and deliver for the Board all documents of any kind required or authorized to be signed by the Board.

Vice-Chair, who shall be the same person as the Vice-Mayor and, in the absence or disqualification or disability of the Chair, shall perform the duties of the Chair and act in place of the Chair, with the full power and authority which the Chair would have were the Chair present.

Secretary for the Board shall be the City Clerk and shall keep a complete record of all proceedings of the Board and shall perform such other duties as may be required by law or ordinance. The Secretary shall not have the right to vote or to perform any other function than provide administrative services, and may be a member of City staff.

Treasurer for the Board shall be the Finance Director of the City, who shall have the custody of the funds and shall keep full and accurate accounts of receipts and disbursements of the Land Bank, and shall deposit all monies and other valuables in the name and to the credit of the Land Bank into depositories designated by the Board and as required by K.S.A. 12-5903. The Treasurer shall disburse the funds of the Land Bank as ordered by the Board, and prepare financial statements each month or at such other intervals as the Board shall direct. The Treasurer shall perform such other duties and have such other authority and powers as the Board may from time to time prescribe. The Treasurer shall not have the right to vote or to perform any other function than provide administrative services.

ARTICLE V

RULES AND PROCEDURES

The Board shall adopt appropriate rules and procedures for the conduct of meetings and for the transaction of the Board's business.

ARTICLE VI

COMMITTEES

SECTION 1. There shall be no standing committees of the Board.

SECTION 2. With the consent of the Board, the Chair may appoint ad hoc committees for special study or review of an issue. The purpose of ad hoc committees shall be to make detailed investigations, studies, and recommendations to the Board. The Chair or Vice-Chair shall be an ex-officio member of all committees. Non-members of the Board may be added to the ad hoc committee by the Chair to provide specialized advice or expertise pertinent to the issue, including staff available to the City of Arkansas City, Kansas.

ARTICLE VII

AMENDMENTS TO BYLAWS

The Board may, by a majority vote, amend these bylaws or any provisions or sections thereof at any time when the same is not in conflict or contravention of any of the laws of the State of Kansas or ordinance of the City of Arkansas City. Any bylaw amendment modifying the authority of the Board of Trustees may be subject to approval by the Board of City Commissioners. Notice of the proposed amendments shall be furnished by the Secretary to Board members not less than ten (10) days prior to the meeting at which said amendments are to be considered.

The above bylaws are hereby adopted as the Bylaws of the Land Bank Board of Trustees of the City of Arkansas City, Kansas, this _____ day of _____, 2017.

, Chair

, Secretary

ARKANSAS CITY, KANSAS
Land Bank Board of Trustees
Policy Directives
October 2017

MISSION STATEMENT

The Mission of the Arkansas City Land Bank is to efficiently acquire, manage and transform vacant, abandoned, nuisance and/or tax-foreclosed properties into productive use benefiting the community.

GOALS

1. Expand and grow the tax base of the community.
2. Strengthen and improve Arkansas City neighborhoods.
3. Support home ownership.
4. Promote the construction of infill housing to reduce and eliminate blight.
5. Operate in an effective and efficient manner as stewards of the public trust.
6. Advance the economic and social interest and well-being of the City of Arkansas City and its residents.
7. Transfer ownership of blight/nuisance properties with no known legal owner to a responsible, tax-paying owner.
8. Reduce the number of properties under current violation by the City of Arkansas City Neighborhood Services Division.

POLICIES

1. Acquisition of Properties.

The Land Bank may acquire property or properties (collectively referred to as "property ") through donation, transfer, or purchase. The Land Bank may accept or refuse to accept any property . In determining which property shall be acquired, the following considerations shall be made:

- A. Acquisition of the property supports the mission and goals of the Land Bank, especially concerning a property that does not sell at a Tax Foreclosure Sale

- by Cowley County and which retains outstanding special assessments levied by the City of Arkansas City and/or taxes.
- B. The property is part of a plan for re-use, rehabilitation, or redevelopment within the community.
 - C. The property would allow for the creation or expansion of green or community open space, or other community support services.
 - D. The property forms part of a plan for land assembly and development by either the Land Bank or partnering entities.
 - E. The property is vacant, non-conforming, blight, nuisance, dangerous, and/or undevelopable and could be sold to adjacent or other responsible landowner.
 - F. Title and/or lien issues are preventing development or redevelopment of the property.
 - G. The property would generate operating support for the Land Bank.

In addition, the Land Bank will consider:

- H. The financial resources available to the Land Bank for acquisition or on-going maintenance.
- I. The underlying value of the property.
- J. The operational capacity of the Land Bank.
- K. The projected length of time the property would remain in the Land Bank.
- L. The need for demolition or environmental remediation on the property as a condition for transfer. (NOTE: Property with adverse environmental conditions will not be accepted without a satisfactorily funded plan for remediation approved by the Land Bank.)

Property with immediate maintenance requirements will not be accepted without a funding source secured for such maintenance, unless specifically exempted by the Land Bank.

The Land Bank **WILL NOT** determine the value of donated property for the purpose of tax benefits, but will provide a letter describing the property if donated.

2. Types of Acquisition.

A. Failure to sell at tax foreclosure sale. All property acquired from the Board of County Commissioners after the property did not sell at county tax foreclosure sale shall be accepted by the Land Bank in its current condition. The Land Bank reserves the right to accept or reject property offered through transfer following an attempted Tax Foreclosure Sale.

B. Owner donation.

- i. All property donated to the Land Bank must be unoccupied at the time of transfer.

- ii. The owner desiring to transfer property to the Land Bank shall prepare a written proposal containing:
 - A. Street address of property;
 - B. A legal description of the property;
 - C. Tax ID or parcel number of the property;
 - D. Title report indicating ownership and any liens or encumbrances on the property;
 - E. Any immediate maintenance requirements; and
 - F. Intended or proposed use and timeframe for use and development of the property (if any).
- iii. The Land Bank Board of Trustees reserves the right to accept or reject property offered as gifts in lieu of Judicial Foreclosure. Persons proposing the gifting of said property will be responsible for title report fees, unless specifically exempted by the Land Bank.

C. Purchase at tax sale. The Land Bank Board of Trustees may authorize a person to purchase property on its behalf at any tax foreclosure or judicial foreclosure sale.

3. Property Management by Board of Trustees.

The Land Bank Board of Trustees shall annually, and as needed, evaluate all Land Bank property for potential use and develop a sales plan for Land Bank property. The Board of Trustees and shall reevaluate as needed.

The evaluation also may identify property that demands reevaluation of zoning classifications, platting configuration, or other factors that warrant changes to the current development restrictions applicable to the property. The Land Bank Board of Trustees may initiate the process to rezone, replat, or otherwise modify the design and proposed use of any property of the Land Bank as deemed to be in the best interests of the Land Bank and the City of Arkansas City, Kansas.

The property determined available for immediate marketing and potential sale shall be identified and advertised in the manner required by all applicable laws, including listing with a real estate broker or agent.

The Land Bank Board of Trustees may set a different minimum price on any Land Bank property; and may set a minimum price on commercial/industrial zoned property and/or those containing structures.

The Land Bank Board of Trustees reserves the right to accept or reject any or all offers to purchase without cause.

4. **Marketing and sale of Land Bank Property.**

The Land Bank Board of Trustees may solicit bids from qualified Real Estate Brokerages to implement a marketing and/or sale plan for Land Bank property, and may list any or all Land Bank property with a licensed real estate agent or agents. Any such bidding process shall be open to all licensed Real Estate Brokerages determined eligible by the Land Bank Board of Trustees and shall be solicited through a written "Request for Proposal" process following the procedures of public bidding established by the City of Arkansas City, Kansas.

5. **Qualifications for Applicants to Purchase Land Bank Property.**

No applicant to purchase any property from the Land Bank shall be delinquent on any licenses or taxes in Cowley County. (For these purposes, participation with any City of Arkansas City or Cowley County Payment Plan constitutes delinquency).

No applicant shall have a history of code enforcement violations on properties they own; nor shall said applicant have any outstanding violations. A history of 3 notices for code violations in the previous calendar year or 5 notices for code violations in the past 3 calendar years will make an individual ineligible to apply.

6. **Requirements of Purchasers of Land Bank Property.**

Unless the property is deemed inappropriate for new construction, all purchasers of property acquired from the Land Bank shall obtain a valid building permit from Arkansas City, Kansas, to construct a new building on the property within six (6) months from the date of deed transfer to the purchaser.

All purchasers of property acquired from the Land Bank shall complete the construction of the building described in the building permit within one (1) year of the date of the issuance of the building permit, otherwise ownership of the property may revert back to the Land Bank.

All property acquired from the Land Bank shall be subject to regular ad valorem taxes levied by all taxing entities within Cowley County, Kansas, unless otherwise abated by an applicable Neighborhood Revitalization Plan or other tax abatement proceeding or agreement. Purchasers of property shall remain current on all ad valorem taxes during all time the property in question may be eligible for an abatement, otherwise ownership of the property may revert back to the Land Bank.

All property acquired from the Land Bank must be properly maintained with no notices for code violations for a period of one (1) year, otherwise ownership of the property may revert back to the Land Bank.

7. **Disposition of Land Bank Property.**

The Land Bank Board of Trustees shall set a minimum/list price on all property of the Land Bank. The basis of the minimum price shall be the current value established by the Cowley County Appraisers Office, the value established by a licensed real estate Broker's Price Opinion, or a different price set by the Land Bank Board of Trustees. The Land Bank Board of Trustees has discretion to accept less than the minimum price to transfer title of the property.

Each applicant to purchase property from the Land Bank must submit an offer and/or proposed contract for purchase, which provides the proposed use for the property.

The proposed use must be consistent with current zoning requirements, or with appropriate zoning modifications. If the proposed use is not consistent with the current zoning requirements, the applicant shall pursue the necessary changes, including rezonings, replattings, and all other applicable procedures required by the City Zoning and/or Subdivision Regulations. The application to make such changes must be made within the next application deadline of the Planning Commission, but no less than two (2) weeks from the grant of authority to proceed with the requested change. The approval of the sale of the property will occur only after final decisions regarding the proposed changes to the zoning requirements. There is no guarantee a requested change shall be approved by the City of Arkansas City, regardless of any other action taken by the Land Bank Board of Trustees, or its agents, regarding the subject property.

All Land Bank property shall be conveyed and deed recorded within 180 days of award and approval of the Land Bank Board of Trustees, which may be extended for a reasonable time. Any property not conveyed within the above time period, and without a written extension from the Land Bank Board of Trustees, will have the award voided and the property shall be returned to the Land Bank Inventory.