



POLICY GOVERNING THE DISPOSITION OF REAL PROPERTY BY THE ROCHESTER LAND BANK CORP.

The disposition of real property by the Rochester Land Bank Corp., herein referred to as the Land Bank, shall be governed by the general guidelines set forth in this policy, and shall at all times be consistent with the provisions of § 1600 of the New York Not-for-profit Corporation Law (the “Land Bank Act”) and all applicable Federal, State, and local laws, rules, regulations and ordinances.

1. Coordination with City of Rochester initiatives

Properties shall be disposed of in a manner that supports the mission of the Land Bank in alignment with the City of Rochester’s redevelopment strategies, municipal goals and objectives.

2. Disposition of Real Estate Interests

The Land Bank may convey, exchange, sell, transfer, lease as lessor, grant, release and demise, pledge any and all interests in, upon or to real property of the Land Bank.

3. Board Approval

All disposition of real property shall be approved by the Board prior to conveyance of title. The Land Bank shall not sell, mortgage, or lease any real property unless authorized by a by a majority vote of the Board as required pursuant to N-PCL § 1605 (2)(i)(5). The terms of any contract or agreement concerning the sale, lease, license, easement, encumbrance, or other alienation of any interest in real property of the Land Bank, shall be approved by the Board.

4. Ownership by Land Bank

Pursuant to § 1609(a) of the Land Bank Act, the Land Bank shall hold in its own name all real property acquired by the Land Bank irrespective of the identity of the transferor of the property.

5. Designation of Contracting Officer / Duties of Contracting Officer

Except as otherwise provided herein and in the New York State Public Authorities Law (PAL), the “Contracting Officer” shall be responsible for the disposition of real property owned by the Land Bank and shall be responsible for the Land Bank’s compliance with, and enforcement of, this Policy. The Executive Director of the Land Bank is hereby designated as the Contracting Officer. As the Contracting Officer, the Executive Director has responsibility and authority for carrying out the directives of the Board with regard to acquisition of property. All contracts shall be executed in the name of the Land Bank.

6. Authorized Signatory

The Board delegates to the Executive Director of the Land Bank the authority to enter into and execute agreements, instruments of conveyance and all other related documents pertaining to the conveyance of real property by the Land Bank. In the event that the Executive Director is unavailable, unable, or unwilling to carry out this responsibility, the Board President shall have authority to act in this capacity.

7. Disposition Methods

The Land Bank may dispose of real property, or any interest in real property, by the following methods:

- Conveyance of a partial interest by lease, license, easement, or other agreement;
- Transfer to a government entity;
- Public Auction;
- Sale by Request for Proposal;
- Negotiation;
- Sealed Bid.

8. Option to Purchase Real Estate

The Land Bank may grant an option to purchase real estate for a specified percentage of the purchase price with a negotiated time frame to be determined by the Land Bank. This payment will be credited to the sale price at closing. If closing does not occur, the fee shall be forfeited. All option agreements are subject to all policies and procedures of the Land Bank pertaining to property transfers.

9. Sale Price / Consideration in Payment for Real Estate

In each and every transfer of real property the Land Bank shall require good and valuable consideration in an amount determined by the Land Bank in its sole discretion. The Land Bank will consider both the fair market value of the property and the Property Costs in determination of consideration for each property. The fair market value of the real property shall be determined by a valuation estimate performed by Land Bank staff or a qualified independent real estate professional, as further defined in Land Bank procedures. Said valuation estimate shall be included in the Land Bank's record of the transaction for the property. "Property Costs" shall mean the aggregate costs and expenses of the Land Bank attributable to the specific property being sold, including costs of acquisition, maintenance, repair, demolition, marketing, legal expenses of the property and indirect costs of the operations of the Land Bank allocable to the property. The consideration to be provided to the Land Bank by the Transferee may take the form of monetary payments and secured financial obligations, deferred financing, performance of contractual obligations, imposition of restrictive covenants, or other obligations and responsibilities of the Transferee, or any combination thereof, and such other forms of consideration as are consistent with state and local law. The Land Bank may consider alternative financing options (i.e., providing a mortgage and promissory note) as a method of disposition in any transactions.

A. Transfers to Governmental Entities.

The Land Bank may convey real property to governmental entities at an amount less than fair market value when such property is to be retained by the governmental entity in perpetuity for governmental purposes. Properties acquired by the Land Bank by means of the trump bid which are subsequently deemed to be unsuited to the mission of the Land Bank may be conveyed by donation to the City of Rochester upon enactment of an authorizing resolution of the Board and authorizing legislation approved by the Rochester City Council. In the event that the Land Bank transfers real property to a governmental entity in order to facilitate a transfer of title to a third party, the consideration shall not be lower than the Property Costs, to be paid in cash, unless the Board:

- in its discretion approves a price reduction in conjunction with an approved redevelopment plan or municipal goal, or
- accepts nonmonetary consideration as described above.

B. Transfers to NonGovernmental Entities

Conveyance of real property by the Land Bank to nongovernmental entities shall require payment of consideration in an amount not lower than the Property Costs, to be paid in cash, unless the Board:

- in its discretion approves a price reduction in conjunction with an approved redevelopment plan or municipal goal,
- accepts nonmonetary consideration as described above, or
- applies grant funding to offset any of the Property Costs, provided that such price reduction complies with grant provisions.

10. Planned Disposition Strategy

A subsequent use that furthers community development objectives, along with an estimated schedule for implementation, must be identified prior to disposition.

For conveyances that are subject to a development proposal, the Land Bank will require potential Transferees to submit a plan that includes, at a minimum, the following:

- Project description, including ultimate use of property
- Development schedule
- Investment plan including projected development costs and sources of funding
- Experience of Transferee in undertaking similar projects
- References

All tax incentives and financing necessary for the development to be completed must be committed prior to actual disposition.

All Transferees shall be required to comply with all terms of the approved development proposal, the purchase offer, the City's Zoning Ordinance and Building Code, and the laws and/or ordinances of all other agencies that may have jurisdiction.

11. Structure of Conveyances

Transactions shall be structured in a manner that permits the Land Bank to enforce recorded covenants or conditions upon title pertaining to development and use of the property for a specified period of time. Such restrictions may be enforced, in certain cases, by means of a reverter clause in the deed conveying title to a Transferee, and/or reliance on subordinate financing held by the Land Bank.

12. Qualifications of Transferee

Individuals and entities seeking to acquire real property from the Land Bank, or to enter into transaction agreements with the Land Bank, will be required to provide such information as may be requested by the Land Bank, including but not limited to the legal status of the Transferee, its organizational and financial structure, and its prior experience in similar property development or management.

The Land Bank deems it to be in the best interest of the City of Rochester to convey real property to individuals and entities who will be responsible property owners, and to that end the Land Bank shall adopt the purchaser eligibility guidelines set forth in § 21-16 of the Charter and Code of the City of Rochester. These provisions shall apply to all Transferees including purchasers and lessees.

Individuals and entities shall be prohibited from acquiring ownership or property rights from the Land Bank if they have engaged in fraudulent activity in connection with the sale of a City-owned or Land Bank-owned property, have lost real property through City tax foreclosure proceedings within the previous five years, owe property taxes on other real property within the City of Rochester within the previous three years, have been the subject of a cancellation of sale by the City of Rochester or have been held in contempt of a court order for failure to abate code violations within the previous five years, or who have unsatisfied judgments in the Municipal Code Violations Bureau within the previous five years. Failure to perform in prior transactions with the Land Bank shall also render an individual or entity ineligible to purchase of real property from the Land Bank.

Individuals and entities who own property within the City of Rochester that is in violation of City codes shall be deemed ineligible to acquire ownership or property rights from the Land Bank unless the violation(s) are on property that is part of construction, rehabilitation or development projects, or is undergoing periodic Certificate of Occupancy renewal, and it is established by the City of Rochester Department of Neighborhood and Business Development that the owner is making satisfactory progress toward the abatement of said violations.

Individuals and entities that were the prior owners of real property at the time of tax foreclosure which transferred title to the Land Bank shall be ineligible to be the Transferee of such property from the Land Bank, except that the Board of the Land Bank in its sole discretion may approve a short-term rental agreement with a prior owner.

Parties that are not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the Land Bank shall be ineligible to purchase real property from the Land Bank.

Where the Transferee is not an individual, the provisions cited in this section shall also apply to officers, principals and related businesses or associations. Such provisions shall not apply to purchasers of unbuildable vacant land.

The Land Bank reserves the right to independently investigate and consider the Transferee's experience and business activities in other jurisdictions, as well as to consider references, both those that are submitted and others that may be solicited by the Land Bank. All determinations of the eligibility or qualification of any Transferor shall be at the sole and absolute discretion of the Land Bank.

13. Conveyance to Tax-Exempt Entity

The Land Bank may give preference to proposals to transfer real property into private ownership for taxable uses. However, given the unique nature of some properties, the Land Bank may consider a tax-exempt use that supports the mission of the Land Bank and is in congruence with municipal strategies, goals and objectives. Except in the discretion of the Board for overriding charitable, educational and other

public interests, in a conveyance to a non-governmental tax-exempt organization, the Transferee shall waive its tax-exempt status for five years and agree to pay property taxes for that period of time, unless that organization currently owns a tax-exempt property within 500 feet of the real property acquired from the Land Bank. The Transferee shall further agree not to transfer, re-sell or convey the subject premises to a tax-exempt organization for a period of five (5) years from the date of the recording of the deed from the Land Bank. This covenant shall be contained in the deed from the Land Bank to the Transferee.

14. Environmental

Unless otherwise approved by the Board, the Transferee shall be solely responsible for performing and conducting its own due diligence as to the physical and environmental condition of the real property being conveyed. The Land Bank shall supply the Transferee with copies of all environmental reports (the "Environmental Reports") it has in its possession in regard to the real property conveyed. Transferee shall accept the real property in "as is" condition, and shall agree to assume and undertake any and all liability and expense resulting from the presence of Hazardous Substances in, on, or beneath the real property, and/or removal or other remediation of any such Hazardous Substances, except to the extent that the presence or release of any such Hazardous Substances has resulted from or arisen out of the activities of the Land Bank, its agents, employees or contractors.

15. Lead-Based Paint and/or Lead-Based Paint Hazards

The Land Bank shall comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act (Title X) passed by Congress in 1992 and the regulations which were issued to implement said legislation, in the conveyance of all real property constructed prior to 1978 containing one or more residential dwelling units, unless such property is specifically excluded from the rule. The Land Bank shall disclose all known lead-based paint and/or lead-based paint hazards and further provide any available reports of lead-based paint testing regarding residential dwellings covered under this rule. Transferees shall have the opportunity, for a 10-day period, to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards, at their own expense. By mutual agreement of the Land Bank and Transferee, the time period may be shortened or lengthened. The Transferee may waive the inspection opportunity.

16. Insurance

The Land Bank may grant an access or license agreement to permit a Transferee to conduct due diligence activities or take occupancy prior to conveyance of title, or for such other purposes as deemed necessary to carry out the purpose of the planned disposition. The Land Bank may also enter into a lease agreement. During a license period and/or lease term, the Transferee shall agree to defend, indemnify and hold the Land Bank and the City of Rochester harmless from any and all claims for bodily injury or property damage occurring or alleged to have occurred at the subject property. Transferee shall insure the property with liability insurance in such limits as may be approved by the Land Bank. All such insurance policies shall be issued in the name of the Transferee, the Land Bank and the City of Rochester as additional insured, and a copy of a bona fide certificate of insurance evidencing the coverage provided in the policy shall be delivered by the Transferee to the Land Bank on or before the date of commencement of the license period.

17. Boundary Lines

The Land Bank may grant and accept easements to resolve boundary line title tissues, including building encroachments between adjoining parcels and fence encroachments. The Executive Director may authorize boundary line agreements and driveway agreements with the owners of parcels adjacent to Land-Bank owned parcels, without conveyance of ownership. Consideration for said easements and agreements may be set at \$1 (payment waived).

18. Disposition by Commissioner of General Services

If the Board deems that disposition of real property by the Commissioner of General Services will be advantageous to the Land Bank and the State of New York, the Land Bank may enter into an agreement with the Commissioner of General Services whereby the Commissioner may dispose of real property of the Land Bank under terms and conditions agreed to by the Land Bank and the Commissioner of General Services. In disposing of any such property of the Land Bank, the Commissioner of General Services shall be bound by the terms of Title 5-A of the Public Authorities Law, and references to the Contracting Officer shall be deemed to refer to the Commissioner of General Services.

19. Disposition of Proceeds of Sale

Any proceeds from the sale or transfer of real property by the Land Bank shall be retained, expended, or transferred by the Land Bank as determined by the Board in the best interests of the Land Bank and in accordance with the Land Bank Act.

20. Inventory of Real Property Dispositions

Pursuant to N-PCL §§ 1609(g) and 1609(g), the Land Bank shall maintain and make available for public review and inspection a complete inventory of all real property dispositions by the land bank. Such inventory shall include a complete copy of the sales contract including all terms and conditions including, but not limited to, any form of compensation received by the land bank or any other party which is not included within the sale price. Within one week of the disposition of any parcel of real property, the Land Bank shall list the parcel in the publicly available inventory. Such records shall remain available for public inspection in the property disposition inventory indefinitely.

21. Retention of Records

Copies of all real property disposition contracts shall be retained indefinitely by the Land Bank. Copies of contracts under this section shall be kept as a part of the Land Bank's disposition file and shall be incorporated into the disposition inventory as set forth in Section 20 of this Disposition Policy. Copies may be kept in original form, electronically, or in both forms.

22. Property Report

The Land Bank shall publish annually a report listing all property of the Land Bank, as required pursuant to PAL §2896 (3)(a). Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Land Bank and the name of the purchaser for all such property sold by the Land Bank during such period.

The Land Bank shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, the New York State Legislature, and the Authorities Budget Office as required pursuant to PAL §2896 (3)(b).

23. Exceptions to Policy

Any exception to the policy governing dispositions shall be taken to the governing body of the Land Bank for approval.

24. Annual Review and Amendments of Policy

This Policy is subject to modification and amendment at the discretion of the Board in accordance with the PAL §2800 and N-PCL §520. The Policy shall be reviewed and approved annually by the Land Bank Board. On or before March 31st of each year, the Policy most recently reviewed and approved including the name of the Contracting Officer shall be filed with the Comptroller of the State and posted on the Land Bank's website.