

# **KENT COUNTY LAND BANK AUTHORITY**

## **PRIORITIES AND POLICIES**

As approved by the Board of Directors on January 26, 2011

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## **1. Policies Governing the Acquisition of Properties**

The acquisition and disposition of properties acquired by the Treasurer of Kent County through tax foreclosure procedures in accordance with 1893 P.A. 206, as amended by 1999 P.A. 123, MCL 211.1 et. Seq., and properties that are owned by the Kent County Land Bank Fast Track Authority (the "KCLBA"), shall be governed by the following basic priorities and policies.

The acquisition, use, and disposition of such properties shall at all times be consistent with the authority granted by the Constitution of Michigan, the laws of the state of Michigan, the Land Bank Agreement by and between Kent County, Michigan and the State of Michigan dated November 19, 2009, the articles of incorporation and bylaws of the Kent County KCLBA, and the public purposes set forth therein.

In determining which, if any, properties shall be acquired by Kent County or by the KCLBA, the Treasurer shall give consideration to the following factors:

1. Acquisition of properties that support the mission of the Land Bank.
2. Proposals and requests by governmental, nonprofit and for-profit entities that identify specific properties for ultimate acquisition and redevelopment, which: a) act as catalyst for further development; b) are part of a community's master plan or another comprehensive development plan; c) reduce blight in the community. In particular, acquisition will be prioritized where the land bank participation is necessary to complete the redevelopment; or d) are available for immediate occupancy without the need for substantial rehabilitation, and will generate operating resources for the functions of the Land Bank.
3. Properties must not be occupied.
4. Properties located in reinvestment areas that would support strategic neighborhood stabilization and revitalization plans as determined or approved by the local unit of government.
5. Properties that meet the local unit of government's criteria and policies for demolition, where such policies exist, and such demolition will support blight elimination and neighborhood revitalization plans. This activity is contingent upon the funding available for the Land Bank to facilitate demolition.
6. Properties that would form part of a land assemblage development plan by either the land bank or partnering entities.
7. Vacant, non-conforming, or (developable and undevelopable) properties that could be placed into a Side Lot Disposition Program or support a planned development project.
8. Properties that are environmentally contaminated and whether funds have been secured for the clean-up of the property and a remediation plan is in place for future reuse.

9. Mortgage foreclosed, tax foreclosed, and bankrupt properties which are located in a neighborhood that is an area of focus, or with the purpose of preventing the further decline of a neighborhood.
10. Properties that would allow for the creation or expansion of green or community space.
11. Input of community/neighbors, if provided.

The Treasurer may combine properties from one or more of the foregoing categories in structuring the terms and conditions of the statutorily required auctions of the tax foreclosure properties, and may acquire any such properties prior to auctions, at such auctions, or subsequent to auctions as authorized by law. In determining the nature and extent of the properties to be acquired, the Treasurer shall also give consideration to underlying values of the subject properties, the financial resources available for the acquisitions, the operational capacity of the KCLBA, and the projected length of time for transfer of such properties to the ultimate transferees.

Following the transfer of any properties to the KCLBA in accordance with this policy, the KCLBA shall have the right, pursuant to MCL 124.756, to maintain, repair, demolish, clean, and grade the subject property and perform any and all other tasks and services with respect to the subject property as the KCLBA may deem necessary and appropriate in its sole discretion, in order to preserve property value. KCLBA shall attempt to maintain properties to meet zoning ordinances or codes, provided the financial or other resources necessary are available.

## **2. Priorities Concerning the Disposition of Properties**

The disposition of properties shall be based upon the intended or planned use of the property. The disposition of any given parcel will be determined by an assessment of the most efficient and effective way to maximize the aggregate policies and theme priorities. The theme priorities identified below are designed to align with the acquisition policies of KCLBA to insure clarity and consistency in the execution of Land Bank duties. In evaluating the merits of each request, the KCLBA shall consider whether the intended or planned use of the property to be disposed of meets the purpose and intent of a local jurisdiction's master plan and zoning ordinance as well as other applicable local policies as deemed necessary. The Board and Staff of the KCLBA shall at all times retain flexibility in balancing property use, nature of transferees, neighborhood and community development priorities, and property condition in disposition decisions. The following theme priorities shall be referred to (in no particular order) during decision-making:

1. Economic redevelopment: The property is a component of a comprehensive redevelopment plan and/or contributes to a larger land assemblage plan that is intended to spur new investment.

2. Neighborhood stabilization: The intended or planned use of the property will prevent continued neighborhood erosion and contribute positively to revitalization efforts.
3. Quality of life: The vitality of a neighborhood or community will be improved by creating better connections (eg trails, transit) or additional green space.
4. Resource leverage: New collaborations and partnerships are used to increase the impact of the investment. Innovative approaches are encouraged.
5. Catalyst for change: The intended or planned use of the property shall have the potential to act as a catalyst for additional development activities, the magnitude of which may be evaluated.
6. Local support: The request is supported by local unit policies and community leadership, as needed.

### **3. Factors in Determining Consideration Due Upon Transfers**

The following factors shall constitute general guidelines for determination of the consideration to be received by the KCLBA for the transfer of properties. In each and every transfer of real property the KCLBA shall require good and valuable consideration in an amount determined by the KCLBA in its sole discretion. The KCLBA will consider both the fair market value of the property and the Property Costs in its determination of consideration for each property. "Property Costs" shall mean the aggregate costs and expenses of the KCLBA attributable to the specific property in question, including costs of acquisition, maintenance, repair, demolition, marketing of the property and indirect costs of the operations of the KCLBA allocable to the property

1. The consideration to be provided by the transferee to the Land Bank may take the form of cash, deferred financing, performance of contractual obligations, imposition of restrictive covenants, or other obligations and responsibilities of the transferee, or any combination thereof.
2. All property that is transferred shall be based upon consideration equal to the fair market value of the property or, at minimum, the Property Costs
3. Any exception to the policies governing consideration shall be taken to the governing body of the Land Bank for approval.

## 4. Side Lot Disposition Program

Individual parcels of property may be acquired by the Treasurer, the County, or the Land Bank Authority, and transferred to individuals in accordance with the following policies. The transfer of any given parcel of property in the Side Lot Disposition Program is subject to override by higher priorities as established by the KCLBA.

### A. Side Lot Disposition Policies

1. Qualified Properties. Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:
  - (a) The property shall be vacant real property without a structure.
  - (b) The property shall be physically contiguous to adjacent occupied (owner) residential property with not less than a 75% common boundary line on one side (left or right).
  - (c) Initial priority shall be given to the disposition of properties of insufficient size to permit independent development and must be a non-building lot as determined by the local unit of government's zoning ordinance.
  - (d) No more than one lot may be transferred per contiguous lot.
  - (e) Intended use for lot is disclosed.
  - (f) The transfer shall include a deed restriction requiring the use of the property to be consistent with the stated use.
  
2. Transferees.
  - (a) All transferees must hold title on the contiguous property. Priority is given to Transferees who personally occupy the contiguous property.
  - (b) The transferee must not own any real property (including both the contiguous lot and all other property within the county) that is subject to any un-remediated citation of violation of the state and local codes and ordinances.
  - (c) The transferee must not own any real property (including both the contiguous lot and all other property in the county) that is tax delinquent.
  - (d) The transferee must not have been the prior owner of any real property in that was transferred to the Treasurer or to a local government as a result of tax foreclosure proceedings.

### 3. Pricing

- (a) Properties sold as a side lot to an adjacent owner shall be priced at \$100.00 inclusive of all recordable fees. Title insurance is not included as part of the project costs.

4. Additional Requirements: The following policies will only be considered 30 days after the KCLBA takes ownership to the property. After the 30 day period, property is sold on a first come first serve basis.

- (a) Notice shall be given to adjoining property owners. In the event that multiple adjacent property owners desire to acquire the same side-lot, the lot shall be transferred to the property owner who has the largest percentage of common boundary line with the subject side lot.
- (b) In the event that multiple adjacent property owners desire to acquire the same side lot and both adjacent property owners have the same percentage of common boundary line with the subject side lot, the lot shall either be transferred to the highest bidder for the property, or divided and transferred among the interested contiguous property owners.

In the event that a contiguous property needs land for a driveway or other local code compliance issues, this subsection will rule.

## 5. Land Transfers

### A. Land Transfer Policies

These policies pertain to all land transfers made by the Kent County Land Bank Authority. At time of transfer the property may be vacant, improved or ready to occupy.

1. The transferee must not own any real property that: a) has any unremediated citation or violation of the state and local codes and ordinances; b) history of code enforcement court prosecution or City Lien, or c) is tax delinquent.
2. All improved parcels of property shall be sent to the local government for comment prior to the disposition of property.

3. All tax incentives and financing necessary for the development to be completed must be committed for the development prescribed in the development agreement prior to actual disposition.
4. The intended end use of the property must meet all local zoning requirements and necessary local approvals.
5. The Land Bank will consider alternative financing options (*i.e. Money-Purchase Mortgage, Land Contract, Contract for Deed, Installment Sale Agreement, etc.*) as a method of disposition in any transactions.
6. Options to purchase real estate may be available for 10% of the purchase price with a negotiated time frame to be determined by the Land Bank. This fee will be credited to the parcel price at closing. If closing does not occur, the fee is forfeited. All option agreements are subject to all policies and procedures of the Land Bank pertaining to property transfers.
7. All development projects shall require a 'development agreement,' and be started and completed within the negotiated time-frame. Where rehabilitation of a property by the transferee is a condition of the transfer, the requirement for such rehabilitation shall be in accordance with rehabilitation standards as established by the local unit of government and adequate completion of such rehabilitation shall be a condition to the release of restrictions or lien securing such performance. As part of a development agreement, Authority may require bond or surety.
8. A precise narrative description and site plan of future use of the property is required. The future use must be in-line with local development plans. The development agreement shall apply to stated use.
9. All developers must have proven capacity to do the development project.
10. All transferees must not present a conflict of interest based on the KCLBA code of ethics.
11. The proposed use must be consistent with current zoning requirements or proper planning and zoning approvals have been granted by the local unit prior to the effective date of the transfer.
12. Any more than 3 properties per year to the same transferee has to be approved by the board of directors
13. Developers may acquire Land Bank property only with an enforceable plan to place the property into immediate productive use (meaning the property is to be occupied immediately or with the immediate commencement of some form of development project that fits the stated mission of the Land Bank). This applies to all real property.

14. Any exception to the policies governing property disposition shall be taken to the governing body of the Land Bank for approval.

## **6. Land Banking Policies**

The KCLBA is willing to receive title to properties from community development corporations and other entities, and hold title to such properties pending future use by the KCLBA, by the transferor of the property, or by other third parties. The receipt by the KCLBA of any and all conveyances of real property shall at all times be solely within the discretion of the KCLBA, and nothing in this policy shall be deemed to require the KCLBA to take title to any properties nor to limit the discretion of the KCLBA in negotiating the terms of its acquisition of any property, whether as donated transfers or otherwise.

All conveyances received by the KCLBA in its land banking capacity must comply with the requirements set forth below in Part A, and will be reviewed and considered by the KCLBA in accordance with the procedures set forth in Part B. If the transfer is approved by the KCLBA, the KCLBA shall hold the subject property, and may use or convey the subject property or any interest in the subject project, subject only to the right of repurchase set forth in Part B.

### **A. Requirements for Conveyances to the KCLBA in its Land Banking Capacity (“DUE CARE”)**

1. Property that is intended to be conveyed to the KCLBA and to be held by the KCLBA in its land banking capacity shall be clearly designated as such in the proposal for the transfer, and in the records of the KCLBA.
2. No property shall be transferred to the KCLBA pursuant to this land banking policy unless the transferor is either a private nonprofit entity or a governmental entity.
3. The subject property must not be occupied by any party or parties as of the date of transfer to the KCLBA.
4. The subject property must be located in Kent County, Michigan.
5. The subject property must, as of the date of the transfer to the KCLBA, be free of any and all liens for ad valorem taxes, special assessments, and other liens or encumbrances in favor of local, state or federal government entities.
6. The subject property must, as of the date of the transfer to the KCLBA, be free of all outstanding mortgages and security instruments.

## **B. Right of Repurchase by the Transferor**

1. The transferor shall have a right to repurchase the subject property from the KCLBA at any time within a period of three (3) years from the date of transfer to the KCLBA by giving notice to the KCLBA.
2. The right of repurchase may be exercised by the transferor upon payment to the KCLBA of the Purchase Price. The Purchase Price shall be an amount equal to (i) all expenditures of the KCLBA (whether made directly by the KCLBA or through payments to a third party contractor) in connection with the subject property incurred subsequent to the date of conveyance to the KCLBA, and (ii) an amount determined by the KCLBA as its average indirect costs, on a per parcel basis, of holding its portfolio of properties.
3. The KCLBA shall have the right, at any time within the three year period following the date of the original transfer, to require the transferor to exercise its right of repurchase by giving written notice to the transferor of the requirement that it exercise its right of repurchase and the amount of the Purchase Price. The transferor must exercise its right of repurchase, and close the reconveyance of the property within sixty (60) days of receipt of such notice. Failure of the transferor to exercise and close upon its right of repurchase within such period of time shall result in a termination of all rights of repurchase with respect to the subject property.

## **7. Donated Property Policies**

1. Properties with adverse environmental conditions will not be accepted without a satisfactory funded plan for remediation approved by the Land Bank.
2. Properties with immediate maintenance requirements will not be accepted without a funding source secured for such maintenance.
3. The Land Bank will not determine the value of the donated property for the purpose of tax benefits, but will provide a letter describing the property donated.
4. The Land Bank will only accept donated properties located within a neighborhood of focus.

## **8. Exceptions**

Any exceptions to this policy must be authorized by the Board of Directors of the Land Bank.