

**GENESEE COUNTY  
LAND BANK AUTHORITY**

**POLICIES**

**As Amended by the Board of Directors on April 18, 2018**

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The acquisition and disposition of properties acquired by the Treasurer of Genesee 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 Genesee County Land Bank Authority (the "LBA"), 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 Genesee County, Michigan and the State of Michigan December 7, 2004, the articles of incorporation and bylaws of the Genesee County Land Bank Authority, and the public purposes set forth therein.

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

The Land Bank Authority may acquire real property from a variety of sources including but not limited to the following: (a) transfers from local governments, (b) acquisitions at tax foreclosures, (c) donations from private entities, (d) market purchases, (e) conduit transfers contemplating the simultaneous acquisition and disposition of property, and (f) other transactions such as land banking agreements.

In determining which, if any, properties shall be acquired, the Land Bank Authority shall give consideration to the following factors:

- Proposals and requests by nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment.
- Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.
- Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.
- Properties that would be in support of the objectives set forth in local land use plans.
- Properties that would form a part of a land assemblage development plan.
- Properties that will generate operating resources for the functions of the Land Bank Authority.
- Any other factor deemed a priority by the Executive Director in consultation with the Board of Directors.

For properties that become available through the tax foreclosure processes for acquisition by the Land Bank Authority, the LBA may work with the Genesee County Treasurer to 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 LBA shall also give consideration to underlying values of the subject properties, the financial resources available for acquisitions, the operational capacity of the LBA, and the projected length of time

for transfer of such properties to the ultimate transferees. Acquisitions other than those properties that are acquired via foreclosure, must be approved by the LBA Board of Directors.

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

The disposition of properties shall be based upon a combination of three different factors. The first factor involves the intended or planned use of the property. The second factor considers the nature and identity of the transferee of the property. The third factor addresses the impact of the property transfer on the short and long-term neighborhood and community development plans. The disposition of any given parcel will be based upon an assessment of the most efficient, effective, and equitable way to maximize the aggregate policies and priorities. The Board and Staff of the LBA shall at all times retain flexibility in evaluating the appropriate balancing of the priorities for the use of property, priorities as to the nature of the transferee of properties, and priorities concerning neighborhood and community development.

### Priorities for Use of Property

- Neighborhood revitalization.
- Homeownership and affordable housing.
- Return of the property to productive tax paying status in a manner that is consistent with local land use plans and zoning.
- Land assemblage for economic development.
- Long-term (over 5 years) "banking" of properties for future strategic uses.
- Provision of financial resources for operating functions of the LBA.

### Priorities as to the Nature of the Transferee

- Qualified nonprofit corporations that will hold title to the property on a long-term basis (primarily rental properties) or hold title to the property for purposes of subsequent reconveyance to private third parties for homeownership.
- Governmental entities (including public schools).
- Entities that are a partnership, limited liability corporation, or joint venture comprised of a private nonprofit corporation and a private for-profit entity.
- Individuals who own and occupy residential property for purposes of the Side Lot Disposition Program.
- Nonprofit institutions such as academic institutions and religious institutions.
- Individuals that intend to occupy a property as their primary residence that do not have any outstanding blight or code violations, that do not have any property owned in Genesee County that is in poor condition including those with obvious signs of dumping or disrepair, do not have delinquent property taxes in Genesee County, and have not had an ownership interest in a property located in Genesee County that has been tax foreclosed in the last five years.

Individuals or entities that have had a tax foreclosure within the last five years will not be eligible to purchase. If the tax foreclosure was longer than five years ago, the individual or entity may be eligible to purchase if they have not had delinquent property taxes in Genesee County within the last three years. They will not be eligible for any LBA financing, and will require LBA Board approval to be eligible to purchase any property. Priority will be given to those individuals or entities that do not have any past tax foreclosures.

Individuals or entities that were the prior owners of property at the time of the tax foreclosure which transferred titled to the Treasurer shall be ineligible to be the transferee of such property from the LBA, except in cases of extreme hardship or where extenuating circumstances prevented the owner from making timely tax payments. Any exceptions must be approved by the Executive Director in consultation with the Chair of the LBA Board.

The LBA reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities that meet any of the following criteria:

- Failure to perform in prior transactions with the LBA.
- Ownership of properties that became delinquent in ad valorem tax payments and remain delinquent in ad valorem tax payments during their ownership.
- Parties that are barred from transactions with local government entities.
- Parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the LBA or local ordinance.
- Ownership of properties that have any unremediated citation for violation of the state and local codes and ordinances, or own properties in Genesee County that are in poor condition such as those with dumping or obvious signs of disrepair.
- Any other criteria deemed a priority by the Executive Director in consultation with the Board of Directors.

### **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 LBA for the transfer of properties. In each and every transfer of real property the LBA shall require good and valuable consideration in an amount determined by the LBA in its sole discretion. The LBA 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 LBA 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 LBA allocable to the property.

The consideration to be provided by the transferee to the LBA 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.

## 4. Side Lot Disposition Program

Individual parcels of property may be acquired by 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 LBA.

### A. Side Lot Disposition Policies

- 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 unimproved real property.
  - b. The property shall be physically contiguous to adjacent owner-occupied residential property, with not less than a 75% common boundary line at the side.
  - c. The property shall consist of no more than one lot capable of development. Initial priority shall be given to the disposition of properties of insufficient size to permit independent development.
  - d. No more than one lot may be transferred per contiguous lot.

#### Transferees

- e. All transferees must own the contiguous property, and must personally occupy the contiguous property and have a property designated with a PRE designation on the property.
- f. The transferee must not own any real property (including both the contiguous lot and all other property in Genesee County) that is subject to any unremediated citation of violation of the state and local codes and ordinances, or is in poor condition such as those with dumping or obvious signs of disrepair.
- g. The transferee must not own any real property (including both the contiguous lot and all other property in Genesee County) that is tax delinquent.
- h. The transferee must not have been the prior owner of any real property in Genesee County that was transferred to the Treasurer or to a local government as a result of tax foreclosure proceedings within the past five years.

A transferee that has had a tax foreclosure within the last five years will not be eligible to purchase. If the tax foreclosure was longer than five years ago, the transferee may be eligible to purchase if they have not had delinquent property taxes in Genesee County within the last three years. LBA Board approval will be required for these transactions.

Priority will be given to those individuals or entities that do not have any past tax foreclosures.

#### Pricing

- i. A per parcel price shall be approved by the Executive Director each year.

- j. Any proposed consideration that differs from the yearly designated per parcel price shall be approved by the Executive Director. Parcels of property may be transferred for nominal consideration.

Additional Requirements

- k. Persons who have been leasing or adopting a property adjacent to their home will be given priority over other adjacent owners.
- l. Owners who wish to purchase more than one lot adjacent to their property and meet all other requirements may do so by paying market value so long as it is consistent with all local plans and zoning requirements.
- m. In the event that multiple adjacent property owners desire to acquire the same side lot, priority will be given to an owner-occupied neighbor. If all things considered are equal the lot shall either be transferred to the highest bidder for the property, or divided and transferred among the interested contiguous property owners in rare circumstances.

## 5. Residential Land Transfers

### A. Residential Land Transfer Policies

These policies pertain to transfers whose future use is residential. At time of transfer the property may be vacant, improved or ready to occupy. Transferees are defined as individuals, partnerships, governments or corporate entities that want to purchase a property from the LBA.

- The transferee must not own any real property in Genesee County that is tax delinquent.
- The use of transferred property must give consideration to the Community/Neighborhood Plan.
- Parcels of property shall be transferred for consideration in an amount not less than the lower of the fair market value or the amount of the costs incurred in acquisition, demolition and maintenance of the lot/building.
- All development projects should be started and completed within a time frame negotiated with LBA.
- Options may be available for 10% of the parcel price for up to a 12-month period. 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 LBA pertaining to property transfers.
- A precise narrative description of future use of the property is required along with documentation showing the funds are available to complete the improvements.
- Transactions shall be structured in a manner that permits the LBA 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, through reliance on subordinate financing held by the LBA.
- If code or ordinance violations exist with respect to the property at the time of the transfer, the transfer agreements shall specify a maximum period of time for elimination or correction of such violations, with the period of time be established as appropriate to the nature of the violation of the anticipated redevelopment or reuse of the property.
- The proposed use must be consistent with current zoning requirements or a waiver for non-conforming use is a condition precedent to the transfer.
- Where part or all of the consideration for the transfer is the prospective affordability of the housing units, affordability requirements may be set forth in the transfer agreement and enforceable through recorded covenants, conditions or limitations upon title.
- 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 LBA and 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.

The following additional policies shall apply to properties to be transferred to individual transferees as part of a homeownership program.

- The owner-occupant must complete renovations and move into the structure within a timeframe negotiated by the LBA.

## **B. Land Contracts**

- Applicants that are purchasing a residential structure to be their primary residence may be eligible for a land contract through the LBA. Any residential structures that are being purchased for any other use will not be eligible for a land contract through the LBA.
- A purchaser must attend homebuyer education through a housing counselor approved by the Michigan State Housing Development Authority or the U.S. Department of Housing and Urban Development before they are eligible to sign a land contract with the Land Bank.

## **6. Commercial Land Transfers**

### **A. Commercial Land Transfer Policies**

These policies pertain to transfers of real property for which the intended future use is non-residential. At time of transfer the property may be vacant, improved or ready to occupy.

- The transferee must not own any real property in Genesee County that is tax delinquent.
- The use of transferred property must give consideration to the Community/Neighborhood Plan.
- Parcels of property shall be transferred for consideration in an amount not less than the lesser of the fair market value or the amount of the costs incurred in acquisition, demolition and maintenance of the lot/building.
- All development projects should be started and completed within a time frame negotiated with the LBA.
- Options may be available for 10% of the parcel price for up to a 12-month period. 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 LBA pertaining to property transfers.
- A precise narrative description of future use of the property is required along with documentation of funds to complete the improvements.
- Transactions shall be structured in a manner that permits the LBA 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, through reliance on subordinate financing held by the LBA.
- If code or ordinance violations exist with respect to the property at the time of the transfer, the transfer agreements shall specify a maximum period of time for elimination or correction of such violations, with the period of time be established as appropriate to the nature of the violation of the anticipated redevelopment or reuse of the property.
- The proposed use must be consistent with current zoning requirements, or a waiver for non-conforming use is a condition precedent to the transfer.

### **B. Additional Terms and Conditions**

- A deed restriction running with the land that prohibits the use of the property for any sexually-oriented business as defined under Public Act 342 of 2010; a casino as defined in the Land Bank Fast Tract Act, Public Act 258 of 2003; or any facility used to produce, manufacture, sell or distribute marijuana will be added to the sale of all commercial properties.

- The Land Bank may use regulatory agreements, development agreements, restrictive covenants, mortgages or similar legal mechanisms to enforce any terms set forth and agreed to at the point of sale.

## **7. Sales of Structures on the Demolition List**

Structures on the Genesee County Land Bank demolition list require a lot of work and money to bring them back up to code and in habitable condition. As a result the Land Bank has been hesitant to sell these structures. However, there are times when people would like to purchase these structures to put the work in and make them their new home or business, or purchase them to tear down themselves.

The cost of tearing down a structure is also high and comes with regulation and compliance which could be burdensome to an inexperienced person. The Land Bank has had situations where someone buys a structure and after getting into it determines there is too much work to be done and it will cost too much and then walks away from the property resulting in a foreclosure and the Land Bank getting the property back. There have also been situations where people didn't complete a demolition as required by ordinance and then the Land Bank gets the property back in an unsellable condition and has to spend money to complete the demo.

In some cases, the property already has a funding in line to complete the demo. If these properties are pulled from this funding source, depending on the source, there may not be an opportunity to substitute another property and may result in money being lost to the community.

As a way to avoid these risks the Land Bank has not sold properties in this condition in the past due to these reasons. There have been several people recently inquiring about purchasing structures on the demolition list and as a result the Land Bank felt it necessary to write a policy to outline the conditions under which they are comfortable selling structures in these conditions.

### **Purchase for Use**

For homes listed on a Land Bank demolition list, funded or unfunded, that people are interested in putting in the work and money to bring up to code may be sold if the following conditions are met:

- The applicant must attend a showing of the house with a Land Bank employee- a licensed contractor is required to attend the showing along with the applicant to get a good idea of the cost involved to bring the house up to code.
- Purchase will be made with cash- land contracts will not be offered on properties on the demolition list.
- The potential buyer will provide a budget and timeline for all repairs.
- The potential buyer will also provide proof of funds or financing for the repairs.
- At a minimum, the cost to purchase a residential property will be the greater of \$500 or the amount the Land Bank has invested into demolition of the property (i.e. utility shutoffs, surveys, etc.). The cost for a commercial property will be determined on a case by case basis.
- Once the Land Bank has invested \$300 or more into a property, a sale will require Board approval before the transfer can be complete. Please note: the Land Bank will not remove the project from the demolition list or cease working towards the completion demolition until the Board has approved the sale which may result in additional costs to be incurred.

- All rehabilitation work must be completed within one year from the date of sale and the owner must submit a copy of the Certificate of Occupancy or other approval document, signed by the local municipality to the Land Bank.
- Failure to complete the rehabilitation work and/or produce the required documents may impact the ability to purchase from the Land Bank in the future.

- Any known reports or surveys the Land Bank has on the property will be provided to the buyer at closing.

### **Purchase for Demo**

For houses listed on the Land Bank demolition list that people are interested in so that they can demo the property themselves may be sold if the following conditions are met:

- The purchase will be made with cash- a land contract will not be offered on properties on the demolition list.
- A cash or performance bond or other form of acceptable security will be provided by the buyer in the amount of \$15,000 for a residential property, to be held by the Land Bank. Once the Land Bank receives a sign off on the demolition from the local municipality the security will be released. The security amount for a commercial structure will be determined on a case by case basis.
- The potential buyer will provide a budget and timeline for the demolition.
- The potential buyer will also provide proof of funds or financing for the demolition.
- At a minimum, the cost to purchase a residential property will be the greater of \$500 or the amount the Land Bank has invested into the demolition of the property (i.e. utility shutoffs, surveys, etc.). The cost for a commercial property will be determined on a case by case basis.
- All basements and footings must be fully removed during the demolition.
- Demolition permits must be pulled before the demolition takes place.
- All local, state, and federal regulations must be complied with.
- The demolition must be completed within 90 days of the purchase of the property. Any additional time would require approval in advance and in writing from the Land Bank Executive Director.
- No work of any kind, including demolition work, can be started on the property until the property is deeded to the buyer.
- Once the Land Bank has invested \$300 or more into a property, a sale will require Board approval before the transfer can be complete. Please note: the Land Bank will not remove the project from the demolition list or cease working towards the completion demolition until the Board has approved the sale which may result in additional costs to be incurred.
- Failure to complete the demolition to all local, state, and federal codes and regulations may impact the ability to purchase from the Land Bank in the future.
- Any known reports or surveys the Land Bank has on the property will be provided to the buyer at closing.

## **8. Approvals of Land Transfers**

### **A. Transfers Requiring Board Approval**

- The Board of Directors must approve all transfers that require any exceptions to the priorities, policies and procedures adopted by the Board of Directors.
- The Board of Directors must approve all transfers in which the LBA will be waiving the 5/50 tax designation with the exception of properties that are being combined with the neighboring parcel with the same ownership.
- The Board of Directors must approve all transfers that involve more than one interested party taking ownership, except in the case of a married couple.
- The Board of Directors must approve all transfers to governmental entities.
- The Board of Directors must approve all transfers to any individual or entity that has had a tax foreclosure more than five years ago.
- Transactions where the purchaser is requesting an exclusive Option to Purchase that extends longer than 90 days.
- Properties on the demolition list where more than \$300 has been invested by the Land Bank.
- The Board of Directors must approve all transfers to a LBA board member, officer, employee, Citizens Advisory Council Member, independent contractor, or representative of the LBA, to a family member of a LBA board member, officer, employee, independent contractor, or representative of the LBA, and to any individual or entity for which a LBA board member, officer, employee, independent contractor, or representative of the LBA has a financial interest or other conflict of interest.

### **B. Transfers Requiring Executive Director Approval**

- The Executive Director may approve all transfers in the Side Lot Disposition Program and may further delegate, by written policy, such approval authority.
- The Executive Director must approve transfers of all properties that have been declared a demolition by either the Land Bank or local unit of government.
- The Executive Director may approve all transfers to individuals as part of the homeownership program and may further delegate, by written policy, such approval authority.
- The Executive Director may approve all single parcel land transfers for residential, commercial or industrial use and may delegate, by written policy, such approval authority. If a prospective transferee seeks to acquire more than three (3) properties within a twelve-month period, the request must go to the LBA Board for approval and

the prospective transferee will be asked to appear before the Board to answer any questions that might arise.

- All transfers authorized by the Executive Director must be reported in writing to the Board of Directors at the immediately following Board meeting.

### **Land Banking Policies**

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

All conveyances received by the LBA in its land banking capacity must comply with the requirements set forth below in Part A, and will be reviewed and considered by the LBA in accordance with the procedures set forth in Part B. If the transfer is approved by the LBA, the LBA 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 C.

Following the transfer of any properties to the LBA in accordance with this policy, the LBA shall have the right, but not the obligation, 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 LBA may deem necessary and appropriate in its sole discretion.

## **C. Requirements for Conveyances to the LBA in its Land Banking Capacity**

- Property that is intended to be conveyed to the LBA and to be held by the LBA in its land banking capacity shall be clearly designated as such in the proposal for the transfer, and in the records of the LBA.
- No property shall be transferred to the LBA pursuant to this land banking policy unless the transferor is either a private nonprofit entity or a governmental entity, except in cases where title is being quieted in order to consummate a sale and the action has been approved by the Executive Director.
- The subject property must be located in Genesee County, Michigan.
- The subject property must not be occupied by any party or parties as of the date of transfer to the LBA.
- The subject property must, as of the date of the transfer to the LBA, 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.
- The subject property must, as of the date of the transfer to the LBA, be free of all outstanding mortgages and security instruments.

- The LBA shall not receive and hold, at any given time, in excess of fifty (50) separate parcels of property from any given transferor unless approved by the Board of Directors.

#### **D. Procedures for Conveyances to the LBA in its Land Banking Capacity**

- The transferor of any proposed conveyance to the LBA in its land banking capacity shall prepare a written proposal containing the following information:
  - a. A legal description of the property.
  - b. A title report, or other similar evidence, indicating that the property is free of all liens and encumbrances specified in Part A.
  - c. A description of the transferor's intended uses of the property and the time frame for use and development of the property by the transferor.
- Following receipt of the proposal, the LBA shall review the proposal and notify of the transferor of its approval or disapproval, and of any changes or additions that may be necessary as determined by the LBA in its sole discretion.
- All land banking agreements shall be reported to the Board of Directors at the next monthly Board Meeting.

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

- The transferor shall have a right to repurchase the subject property from the LBA at any time within a period of three (3) years from the date of transfer to the LBA by giving notice to the LBA.
- The right of repurchase may be exercised by the transferor upon payment to the LBA of the Purchase Price. The Purchase Price shall be an amount equal to (i) all expenditures of the LBA (whether made directly by the LBA or through payments to a third-party contractor) in connection with the subject property incurred subsequent to the date of conveyance to the LBA, and (ii) an amount determined by the LBA as its average indirect costs, on a per parcel basis, of holding its portfolio of properties.
- The LBA 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.

## **9. Transfer of Rehabilitated Properties**

These policies apply to the disposition by the LBA of improved real property which is rehabilitated by or on behalf of the LBA prior to its disposition to a transferee.

### **A. Rehabilitation and Marketing**

- The LBA shall undertake, in its sole discretion, rehabilitation of properties prior to the transfer to third parties. The nature and extent of any such rehabilitation shall be determined by the LBA in its sole discretion.
- A real estate agent, or realtor, may be selected in accordance with LBA guidelines to assist in the marketing of the property. A listing agreement will normally be signed with such agent prior to completion of the rehabilitation. Marketing of the property will normally commence at the completion of the rehabilitation.

### **B. Sale of Rehabilitated Properties**

- A nonrefundable escrow deposit shall be required for all contracts for the disposition of property rehabilitated by the LBA. Such deposit shall be in an amount established by the LBA, but shall not be less than \$500 for a purchase price less than \$30,000, and \$1,000 for a purchase price greater than \$30,000.
- A sales contract shall be submitted to the Sales and Development Manager for review, and must comply with all policies and procedures of the LBA. The sales contract shall not be binding upon the LBA until approved by the Executive Director, or by the Board of Directors if required by LBA policies and procedures.