

# **KALAMAZOO COUNTY LAND BANK AUTHORITY**

## **PROPERTY ACQUISITION AND DISPOSITION PRIORITIES AND POLICIES**

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## Contents

	<b>Page</b>
<b>Policies Governing the Acquisition of Properties .....</b>	<b>3</b>
<b>Priorities Concerning the Disposition of Properties .....</b>	<b>4</b>
<b>Factors in Determining Consideration Due Upon Transfers .....</b>	<b>6</b>
<b>Side Lot Disposition Policies .....</b>	<b>8</b>
<b>Land Transfer Policies .....</b>	<b>10</b>
<b>Land Banking Policies .....</b>	<b>12</b>
<b>Quiet Title Policies .....</b>	<b>15</b>
<b>Donation Policies .....</b>	<b>16</b>

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

The acquisition and disposition of properties acquired by the Treasurer of Kalamazoo 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 or otherwise acquired by the Kalamazoo County Land Bank Fast Track 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 Kalamazoo County, Michigan and the State of Michigan dated September 2, 2009, the articles of incorporation and bylaws of the Kalamazoo County LBA, and the public purposes set forth therein.

In determining which, if any, properties shall be acquired by donation, purchase or by bundling that become available for acquisition by the LBA shall give consideration to the following factors:

1. Proposals and requests by non-profit corporations that identify specific properties for ultimate acquisition and redevelopment.
2. Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.
3. Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.
4. Improved properties that are the subject of an existing order for demolition of the improvements and properties that meet the criteria for demolition of improvements.
5. Vacant properties that could be placed into the Side Lot Disposition Program.
6. Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
7. Properties that would form a part of a land assemblage development plan by the LBA and/or its partners.
8. Properties that will generate operating resources for the functions of the LBA.

The County 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 LBA, and the projected length of time for transfer of such properties to the ultimate transferees.

## **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. Within each factor is a ranking of priorities. The disposition of any given parcel will be based upon an assessment of the most efficient and effective 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 the property, priorities as to the nature of the transferee of properties, and priorities concerning neighborhood and community development.

### Priorities for Use of Property

1. Return of the property to productive taxpaying status
2. Homeownership
3. Affordable housing
4. Neighborhood revitalization plan
5. Commercial, Industrial, recreational
6. Land assembly for economic development
7. Resources to the LBA-Provision of financial resources for operating functions
8. Long term land banking of properties for future strategic uses
9. Green space & community facilities

### Priorities as to the Nature of the Transferee

1. Private developers
2. Business owner
3. Individual/homeowner
4. Non-profit development
5. Investor/landlord
6. Tax exempt entity
7. Side lot candidates
8. Local units of government

Individuals and entities that were the prior owners of property at the time of the tax foreclosure which transferred title to the Treasurer shall be ineligible to be the transferee of such property from the Treasurer.

### Priorities Concerning Neighborhood and Community Development

1. The preservation of existing stable and viable neighborhoods.
2. Neighborhoods in which a proposed disposition will assist in halting a slowly occurring decline or deterioration.
3. Neighborhoods which have recently experienced or are continuing to experience a rapid decline or deterioration.
4. Geographic areas which are predominantly non-viable for purposes of residential or commercial development.
5. Within and among each of the first four priorities shall be a concurrent priority for targeted geographic areas for which a qualified strategic development plan has been approved.

### **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.

#### **Transfers to Non-profit Entities for Affordable Housing with Structure**

1. Transfers of property to non-profit entities for the development, operation or maintenance of affordable housing shall require consideration not less than the Property Costs.
2. Property transferred to non-profit entities will be sold for 50% of market value or property costs incurred by the LB, whichever is greater. Value shall be determined by an appraisal performed by a certified appraiser, a CMA performed by a professional real estate agent, or through utilization of the SEV.
3. Properties which are rehabbed subsequent to foreclosure shall not be offered as a part of this program. These properties shall only be offered at FMV.
4. Properties shall be transferred via quit claim deed. All closing costs shall be paid by the non-profit purchaser.

#### **Transfers to Non-profit Entities for Affordable Housing without a Structure**

1. The LBA shall transfer unimproved parcels of land to non-profits for 50% of the land value. The value shall be determined through use of an appraisal performed by a certified appraiser, a CMA performed by a professional real estate agent, or through utilization of the SEV. Parcels shall be transferred via quit claim deed. All costs associated with closing and title shall be paid by the non-profit buyer.

### Transfers to Governmental Entities

1. The consideration for the transfer shall be determined at the discretion of the LBA. One factor in this determination shall be deed restrictions upon the use of the property.
2. To the extent that transfers of property to governmental entities are anticipated as conduit transfers by such governmental entities to third parties, the consideration shall consist of not less than Property Costs, to be paid in cash. The difference between the Property Costs/Project Costs and the fair market value may be included in consideration depending upon the relationship between the anticipated uses and the governing priorities of the LBA.
3. Transfers shall be made via quit claim deed. All closing costs shall be paid by the governmental entity.

### Side Lot Disposition Policies

1. The pricing policies applicable to the Side Lot Disposition Program shall be as set forth in the policies and procedures applicable to the Side Lot Disposition Policies.

### Transfers of Property at Open Market Conditions

1. Property that is transferred on the open real estate market, whether through auction or negotiated transfers, without restrictions as to future use shall be based upon consideration equal to the fair market value as determined by a CMA performed by a professional real estate agent or by an appraisal performed by a certified appraiser. If the LBA has advertised the property for 30 days on its website and/or via a licensed realtor and has not received a full price offer, staff may evaluate offers in an amount less than full fair market value and execute a negotiated transfer. Such consideration shall be paid in full at the time of the transfer, or in certain circumstances, other arrangements may be made at the discretion of the Executive Director and Board Chair.

#### **4. Side Lot Disposition Policies**

Individual parcels of property may be acquired by the LBA, 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.

##### Qualified Properties

Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:

1. The property shall be vacant unimproved real property.
2. The property shall be physically contiguous to adjacent owner-occupied residential property, with not less than a 75% common boundary line at the side. Rental Properties will be considered as described below in Section 2 (a).
3. 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.
4. No more than one lot may be transferred per contiguous lot.
5. Back lot transfers with a 75% common boundary line will be considered by the Board of Directors at the recommendation of staff with compelling circumstances.

##### Transferees

1. All transferees must own and occupy the contiguous property as their primary residence, and priority is given to transferees who personally occupy the contiguous property. Owners who rent the contiguous property may be eligible if no adjacent owner occupant exists, expresses interest and/or supplies an application. Applicants will be required to describe planned use for the side-lot and demonstrate capacity to maintain the property in good condition – supporting the overall plans for stabilization of the property and surrounding properties. Preference will be given to applications which demonstrate planned improvements to the parcel through plantings and beautification.
2. The transferee must not own any real property (including both the contiguous lot and all other property in Kalamazoo County) that is subject to any un-remediated citation of violation of the state and local codes and ordinances.
3. The transferee must not own any real property (including both the contiguous lot and all other property in Kalamazoo County) that is tax delinquent.
4. The transferee must not have been the prior owner of any real property in Kalamazoo County that was transferred to the Treasurer or to a local government as a result of tax foreclosure proceedings unless the LBA approves the anticipated disposition prior to the effective date of completion of such tax foreclosure proceedings.



### Pricing

1. Properties sold as a side lot to an adjacent owner shall be priced at \$50 plus any applicable fees.
2. Properties sold as a side lot to non-homestead households shall be priced at \$1,000.
3. Property outside of the City of Kalamazoo will be priced at 50% of land value, according to the most recent assessment as reflected in BS&A. This value shall be the SEV.
4. Whenever practicable, the total 5/50 collection shall be estimated using the property tax estimator and collected from the purchaser at the time of a side lot sale.
5. Upon collection of the 5/50 payment in conformance with this policy, the Executive Director shall have authority to issue a waiver of 5/50 collection in conformance with this policy.

### Additional Policies

1. In the event that multiple adjacent property owners desire to acquire the same side lot, the LBA will seek to determine the best use of the property and encourage the parties to agree regarding the disposition of the parcel. The lot may be transferred to the highest bidder for the property, divided and transferred among the interested contiguous property owners, or if the LBA determines that disposition of the property will cause conflict amongst neighbors, the property will be held until an agreed upon resolution can be reached.
2. In the event that a contiguous property needs land for a driveway or other local code compliance issues this subsection will rule.
3. In the event that the Buyer hereafter desires to sell a side lot within 5 years of time of sale, the LBA shall have a right of first refusal. The Buyer shall first present to the LBA the written offer submitted to the Buyer by the third party. The LBA shall then have 45 days to purchase the parcel under the same terms and conditions as that offered by the third party. If the LBA exercises the right of first refusal, then the parcel shall be sold to the LBA by the Buyer under those terms and conditions. The right of first refusal shall not, however, in any way obligate the LBA to hereafter purchase the property. This right of first refusal shall be cited as a recordable condition on the quit claim deed from the LBA to the Buyer.

## 5. Land Transfer Policies

These policies pertain to transfers of real property which may be commercial or residential and may be vacant or improved.

### Transferees

1. The transferee must not own any real property that has any un-remediated citation of violation of the state and local codes and ordinances.
2. The transferee must not own any real property that is tax delinquent.
3. The subject property must not have been used by the transferee or an immediate family member of the transferee for a commercial purpose or as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).
4. The transferee must not have been the prior owner of any real property within 3 years in Kalamazoo County that was transferred to the Treasurer or to a local government, as a result of tax foreclosure proceedings unless the LBA approves the anticipated disposition prior to the effective date of completion of such tax foreclosure proceedings.
5. The transferee must not own any real property that has a history of being a site for criminal activity during transferee's ownership.
6. The transferee must reside in Michigan or designate a local agent authorized to accept notice on behalf of the purchaser if they are a non-Michigan resident.

### Additional Policies

1. The use of transferred property must give consideration to the Community or Neighborhood Plan, if one is in place.
2. Transactions may 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.
3. The transferee must agree to pay future property taxes from time of transfer.
4. If code or ordinance violations exist with respect to the property at the time of the transfer, the transfer agreements may 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.
5. The proposed use must be consistent with current zoning requirements or a waiver for non-conforming use is a condition precedent to the transfer.
6. Where part or all of the consideration for the transfer is the prospective affordability of housing units, affordability requirements may be set forth in the transfer agreement and enforceable through recorded covenants, conditions or limitations upon title.

7. 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 adequate completion of such rehabilitation shall be a condition to the release of restrictions or lien securing such performance.
8. The LBA may require the owner to complete renovations to the structure within a time frame negotiated by the LBA.
9. The LBA may enter into an option with a potential buyer for the purchase of commercial or residential property. It is within the discretion of the LBA to negotiate fair consideration for the option. Factors which will be considered are the length of the option, the value of the property and the benefit to the community and/or LBA goals.

## 6. Land Banking Policies

The LBA has the authority to hold both commercial and residential properties to assemble property or await proper economic conditions for redevelopment.

The LBA 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 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.

### Land Banking Services for Other Entities

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

1. 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.
2. No property shall be transferred to the LBA pursuant to this land banking policy unless the transferor is either a private non-profit 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 LBA.
4. The subject property must be located in Kalamazoo County, Michigan.
5. 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.
6. The subject property must, as of the date of the transfer to the LBA, be free of all outstanding mortgages and security instruments.
7. The LBA shall not receive and hold, at any given time, in excess of ten (10) separate parcels of property from any given transferor.
8. Improved properties will only be accepted by the LBA for demolition of the existing structure.
9. The LBA shall not provide land banking services to other entities for assemblage of improved parcels
10. The LBA shall 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.
11. The LBA shall charge an application and holding fee for each parcel held pursuant to this policy. The application fee shall be \$500 for each parcel. The holding fee shall be \$500 per year in the 2nd and 3rd years. The three year

period shall begin to accrue on the date of execution of this agreement and yearly holding payments shall be due on the first day of the subsequent year.

12. The LBA has the authority to negotiate a land banking agreement.

B. Requirements for Repurchase of Land Banked Property by the Transferor

1. The transferor may repurchase the subject property from the LBA at any time within a period of three (3) years from the date of transfer for use in their planned redevelopment project by giving written notice of the intent to repurchase with a commencement date for said project, and payment of all outstanding fees due to the LBA.
2. Properties shall be retransferred with a conditional deed requiring compliance with the planned use.
2. The LBA may retain title to properties when planned redevelopments do not proceed
3. 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. 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. Quiet Title Policies**

Pursuant to the Land Bank Act, the LBA can utilize expedited quiet title to clear title for properties owned by the LBA and can provide quiet title services for other entities.

### Quiet Title Services for Other Entities

1. The LBA shall charge an initial application fee of \$250 for this service.
2. The service charge for quiet title shall be 1% of the property value determined by multiplying the SEV by 2.
3. Further, the transferor shall be responsible for all legal fees and recording costs associated with this service.
4. The LBA shall have authority to negotiate the terms of the quiet title agreement.

## **8. Donation Policies**

### Donated Property Policies

1. The LBA shall only accept donated properties which further the agency's mission.
2. Properties with adverse environmental conditions will not be accepted without a satisfactory plan and funding in place for remediation, as determined by the LBA.
3. The LBA may accept properties in lieu of foreclosure if the donor conveys clear and marketable title to the property.
4. The LBA may accept donated properties for demolition which are accompanied by appropriate funding or for which a funding source has been identified.
5. Properties with immediate maintenance requirements will not be accepted without a funding source secured for such maintenance as determined by the LBA.
6. The LBA will make every effort to require that donated properties be conveyed with clear and marketable title where practical.
7. Properties that are occupied shall not be accepted as donations.
8. The LBA will not determine donation value for the purpose of tax benefits, but will provide a letter accurately documenting the donation.