

Wayne County Regional Land Bank
Disposition of Real and Personal Property Policy

SECTION 1. PURPOSE. This policy (the "Policy") sets forth guidelines for the Land Bank's disposal of real and personal property in accordance with the mission and purpose of the Land Bank and applicable law.

SECTION 2. DEFINITIONS

- a. "Land Bank" shall mean the Wayne County regional Land Bank Corporation.
- b. "Contracting Officer" shall mean the person responsible for the Land Bank's compliance with, and enforcement of, this Policy and such person shall be the Executive Director of the Land Bank.
- c. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal or real property.
- d. "Property" shall mean personal property in excess of five thousand dollars (\$5,000) in value, real property regardless of value, and any other interest in property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation.

SECTION 3. GENERAL DUTIES

- a. The Land Bank shall:
 - i. maintain adequate inventory controls and accountability systems for all property owned by the Land Bank and under its control;
 - ii. Periodically inventory such property to determine which property may be disposed of;
 - iii. Produce written reports of such in accordance with Section 3(b); and
 - iv. Transfer or dispose of such property as promptly as possible in accordance with this Policy.
- b. The Land Bank shall:
 - i. Maintain and make available for public review and inspection a complete inventory of all property owned by the land bank. Such inventory as to real property shall include: the location of the parcel; the purchase price, if any, for each parcel owned; the current value assigned to the property for purposes of real property taxation; the amount, if any, owed to the locality for real property taxation; the identity of the transferor; and any conditions or restrictions applicable to the property. All parcels received by the Land Bank shall be listed in such inventory within one week of acquisition and shall remain in such inventory

for one week prior to disposition; and

ii. 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 the name of the purchaser, 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. All real property dispositions shall be listed on the property disposition inventory within one week of disposition. Such report shall also include a list and full description of all personal property disposed of. Such records shall remain available for public inspection in the property disposition inventory indefinitely. Such report shall be delivered, no less than annually, to all agencies required by law including the Comptroller of the State of New York, the Director of the Budget of the State of New York, the Commissioner of the New York State Office of General Services, the Director of the Authority Budget Office and the New York State Legislature (via distribution to the majority leader of the senate and the speaker of the assembly).

SECTION 4. TRANSFER OR DISPOSITION OF PROPERTY

a. **Supervision and Direction.** Except as otherwise provided herein, the Contracting Officer shall have supervision and direction over the disposition and sale of property of the Land Bank. The Land Bank shall have the right to dispose of its property for any valid purpose.

b. **Custody and Control.** The custody and control of Land Bank property, pending its disposition, shall be performed by the Contracting Officer.

c. **Means of Disposition.** Unless otherwise permitted, the Land Bank shall dispose of property by sale, exchange, or transfer, for cash, credit, or other consideration as provided for herein, with or without warranty, and upon such other terms and conditions as the Land Bank or the Contracting Officer deems proper. Either the Contracting Officer or the Director of Operations may execute such documents for the transfer of title or other interest in property and take such other action as is necessary or proper to dispose of such property under the provisions of this Policy.

d. **Validity of Deed, Bill of Sale, Lease, or Other Instrument.** A deed, bill of sale, lease, or other instrument executed by or on behalf of the Land Bank, purporting to transfer title or any other interest in property of the Land Bank in accordance herewith shall be conclusive evidence of compliance with the provisions of this Policy and all applicable law insofar as concerns the title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to transfer of title of such property.

e. **Method of Disposition for Real Property.**

i. Negotiated Sale.

1. **Competitive Listing.** Open market competition shall be used to establish the fair market value of Land Bank property. Staff shall list property for sale with a licensed real estate broker and/or on the Land Bank's website to solicit such competition.

2. **Listing Price.** Listing price shall be determined by staff based on a comparative market analysis, consideration of the extent of renovations needed and, as needed, consultation with a licensed real estate broker or agent. The Contracting Officer is empowered to negotiate a proposed purchase price with interested purchasers, taking into consideration all reasonable business and financial justifications for accepting offers above or below listing price.

3. **Award of Purchase Contract.** The Contracting Officer shall present the Board of Directors with a summary and analysis of the offers received for a particular property, making a recommendation as to which offers are reasonable and consistent with the Land Bank's mission and purpose. The Board of Directors, in its sole discretion, may sell property to an Applicant who has not submitted the highest purchase offer (i.e. sell for less than fair market value) for a variety of reasons consistent with the Land Bank's mission and purpose including, by way of example and not limitation, the submission of a redevelopment plan which provides for (i) a more comprehensive renovation of the property, (ii) owner occupancy, (iii) a valuable community service, or (iv) other community benefit. The Board of Directors will also take into consideration the Applicant's qualifications and experience, financial capacity, the quality and extent of their redevelopment plan, and the planned use for the property when selecting to which Applicant a sales contract will be awarded. In addition, a number of defined discount programs are contained in this Policy which may result in a property being sold for less than fair market value.

ii. **Requests for Proposals.** A Request for Proposals (RFP) may be used for the disposition and redevelopment of certain properties identified by the Land Bank to solicit from a specific pool of potential buyers, to allow a greater length of time for interested buyers to develop an offer and development plan, or to solicit development proposals that meet criteria set forth by the Land Bank. As with negotiated sales, the Board of Directors will consider the purchase price offered, the planned use, the scope of the redevelopment plan, the buyer's qualifications and capacity to complete the project, and the funds available for redevelopment, in addition to the content of the response to specific criteria or questions contained within the RFP, when selecting a winning proposal.

iii. Auction. A public auction may be used to sell certain properties identified by the Land Bank when:

1. Minimum criteria for renovation/redevelopment of the property have been established and included in the terms of sale to be enforced by a Development Enforcement Mortgage or similar mechanism.
2. Eligible bidders will be pre-screened to ensure they are qualified Applicants.
3. Winning bidders must demonstrate proof of funds sufficient to purchase and renovate the property in accordance with the predetermined minimum criteria for renovation/redevelopment of the property.
4. Staff will set starting bid and reserve prices based on comparable market analysis and the extent of renovations needed.

iv. Noncompetitive Sale. The Board of Directors may authorize the sale of property to a buyer without first undertaking the other methods of disposition set forth herein when it determines that a benefit to the community will be had by authorizing such sale without competitive procedures for reasons consistent with the Land Bank's mission and purpose and upon a demonstration that the buyer is uniquely qualified to own, develop or otherwise return the property to productive use.

f. Method of Disposition for Personal Property.

i. The Land Bank may dispose of personal property by Negotiated Sale, Auction, Request for Proposals and Noncompetitive Sale under similar terms and conditions as set forth for the disposition of real property as well as by donation when the donee is a charitable organization, the State of New York or any political subdivision thereof. When determining the method of disposition, the Land Bank shall utilize the method which shall permit obtaining such competition as is feasible under the circumstances and which is consistent with the value and nature of the personal property proposed for disposition (including whether the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to impact the value thereof), and which will be most advantageous to the Land Bank, price and other factors considered, and which shall further the interests of and be consistent with the mission and purpose of the Land Bank.

g. Board Approval for Disposition of Property. The Land Bank shall not sell, lease, encumber, or alienate real property, improvements, or personal property unless authorized by a majority vote of the Board of Directors.

SECTION 5. BUYER QUALIFICATIONS; APPLICATION; CONSIDERATION; DISCOUNT/PREFERENCE PROGRAMS; ENFORCEMENT; LEASING.

a. Buyer Qualifications.

i. All disposals of Land Bank property shall be made to qualified buyers. A person submitting an application, bid or other offer to purchase property owned by the Land Bank (an "Applicant") must meet the following requirements to be considered a "qualified buyer":

1. The Applicant's Principal Residence for the year immediately preceding the date of the Applicant's application was in Wayne County or a county adjoining Wayne County, or the Applicant has agreed to engage a property manager located in Wayne County or a county adjoining Wayne County to manage the property which is being disposed of pursuant to this policy. The term "Principal Residence" means the property that the Applicant uses as his or her residence. If the Applicant uses more than one property as his or her residence, the Applicant's Principal Residence is the property in which the Applicant lives for the majority of the time during the year and not less than half of the year.
2. In the event the Land Bank requires the Applicant to complete any renovations or repairs with regard to the property being disposed of pursuant to this Policy, the Applicant has submitted satisfactory evidence that he or she has a feasible plan and adequate financing to complete the necessary renovations or repairs;
3. If requested by the Land Bank, the Applicant has completed a home-buyer education course;
4. The Applicant is not otherwise disqualified as set forth herein; and
5. The Applicant has completed an application in accordance with this Policy.

ii. An Applicant is disqualified if:

1. At the time of the Applicant's application, there are unpaid and past due taxes with respect to any real property owned by the Applicant which is located in Wayne County;
2. A property owned by the applicant has been foreclosed upon for tax-delinquency by Wayne County and transferred to the Land Bank;
3. At the time of the Applicant's application, the Applicant owes the

Wayne County amounts for past due bills, fines, or fees;

4. There are open code violations or a history of code violations with respect to real property owned by the Applicant;

5. Multiple nuisance abatement cases or proceedings have been commenced with respect to real property owned by the Applicant;

6. The Applicant, or any spouse, parent, sibling or child of the Applicant, possessed an interest in the property for which the Applicant is applying to purchase at the time such property was foreclosed upon by Wayne County for tax delinquency. The Board of Directors may consider deviating from this criterion (and 5.a.ii.2 above) if the property in question is the applicant's principal residence or principal source of income and the applicant: 1) presents compelling evidence excusing their failure to redeem the property prior to its foreclosure for unpaid real property taxes; and 2) demonstrates that they have sufficient funds to pay in full (i) the real property taxes that were due at the time of foreclosure, (ii) any other liens that were extinguished by the foreclosure (or the ability to reinstate such liens), and (iii) the Land Bank's expenses associated with the acquisition and maintenance of the property; and 3) makes all repairs necessary to bring the property into compliance with applicable health, building and zoning laws, rules and regulations, and 4) demonstrates that they have sufficient income to remain tax-current once they regain title to the property.

b. Applications.

Land Bank staff shall develop purchase application forms which Applicants shall be required to complete, so that the Land Bank can evaluate the qualifications of Applicants and select Applicants with development plans that are consistent with the Land Bank's mission and purpose and the comprehensive plans of the municipalities in which the Land Bank's real property is located. The information requested in such applications may vary depending on the type of property that the Land Bank is intending to sell. The Land Bank may require Applicants to submit redevelopment plans and/or management plans as part of the application process. The Land Bank shall require Applicants to submit a contract to purchase with each application. In addition, the Land Bank shall require Applicants to submit a \$500 good faith deposit with each application, except that applications to purchase residential side-lots or community garden properties will require only a \$25 application fee.

c. Consideration.

In accordance with the terms and conditions of the Land Bank's discount/preference programs, the Land Bank may accept monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the Applicant, and such other forms of

consideration as are consistent with state and local law.

d. Discount/Preference Programs.

The Land Bank has adopted the following discount and/or preference programs in order to support, through the sale of Land Bank property, development activities which further the Land Bank's mission and purpose:

i. **Community Garden/Green Space Program.** The Land Bank recognizes the economic, environmental, and social value of community gardens and green space. Accordingly, the Land Bank may sell or lease certain unimproved residential parcels for a nominal fee to Applicants who plan to develop such parcels into community gardens or green spaces. Any lease agreement entered into by the Land Bank and a lessee pursuant to this Community Garden/Green Space Program will require the lessee to be responsible for all property maintenance and upkeep; obtain any required permits for use or development; comply with all local building, zoning, and property maintenance ordinances; obtain approval from the Land Bank prior to installing improvements exceeding \$1,000 in value or placing any signs on the property; and furnish the Land Bank with liability waivers signed by each gardener who will have the right to use the property.

ii. **Residential Side-Lot Program.** Certain vacant residential lots acquired by the Land Bank may not be readily marketable because of their size, location, or other characteristics. The Land Bank may sell certain vacant residential lots for a discounted price to property owners who own lots which are directly adjacent to such vacant lots. Owners of adjacent, well-maintained properties are the mostly likely purchasers to take care of these vacant lots in many instances, thereby enhancing the value of the purchaser's property, beautifying the surrounding neighborhood, and improving surrounding property values. The Land Bank may require purchasers to combine such lots with the purchaser's adjacent property to create one tax parcel as a condition of the sale.

iii. **Affordable Housing Development Program.** Due to the community benefit derived from the development of affordable housing, the Land Bank may sell certain properties, including properties with vacant buildings, at a discounted price to Applicants who plan to develop income-restricted affordable housing. In order to qualify for this discount, the development must be subject to restrictive covenants or otherwise regulated by an affordable housing funder for a defined affordability period.

iv. **Public Employee Discount Program.** The Land Bank will offer any Applicant who is a full time employee of _____ a discount on the purchase price for homes located in the Wayne County and which the Applicant will occupy as his or her Principal Residence for a period of at least 5 years. The amount of each discount shall be determined by the Land Bank upon its approval of a sale to the Applicant but the discount shall not exceed an amount

equal to 50% of the listing price of the property being disposed of pursuant to this Policy, but not exceeding \$20,000. When multiple offers are being considered, an offer under this discount program shall be treated as if the applicant is offering the full asking price. If offers exceed asking price an offer under this discount program shall be compared to other offers as if it equaled the actual amount offered in addition to the amount of the discount. Other factors, such as applicants' experience and qualifications, will still be taken under consideration. If the Applicant fails to occupy the property as his or her Principal Residence for at least 5 years, some or all of the discount shall be payable to the Land Bank as a liquidated damage. The amount of the discount payable to the Land Bank as a liquidated damage shall decrease 20% for each year Applicant occupies the property as his or her Principal Residence. The commitment to occupy the property as a Principal Residence and the liquidated damage will be secured by a second mortgage on the property.

v. **Affordable Home Ownership Program.** The Land Bank may offer any Applicant who has a household income equal to or below 80% of the area median income (income limits based on household size and updated by HUD annually) a discount on the purchase price for homes located in the County and which the Applicant will occupy as his or her Principal Residence for a period of at least 5 years. The amount of each discount shall be determined by the Land Bank upon its approval of a sale to the Applicant but the discount shall not exceed an amount equal to 10% of the fair market value of the property being disposed of pursuant to this Policy. If the Applicant fails to occupy the property as his or her Principal Residence for at least 5 years, some or all of the discount shall be payable to the Land Bank as a liquidated damage. The amount of the discount payable to the Land Bank as a liquidated damage shall decrease 20% for each year Applicant occupies the property as his or her Principal Residence. The commitment to occupy the property as a Principal Residence and the liquidated damage will be secured by a second mortgage on the property.

vi. **Home Owner Choice Program.** The Land Bank may list certain properties as only available for sale to Applicants who plan to occupy the property as their Principal Residence or who will renovate the property and sell to a buyer who will occupy the property as their Principal Residence. This program may be applied to properties being disposed of pursuant to this Policy which are move-in ready or require only minimal renovation. If the Applicant or the Applicant's buyer fails to occupy the property as his or her Principal Residence for at least 5 years, the Land Bank shall be entitled to a liquidated damage up to the amount of \$5,000. The amount of the liquidated damage payable to the Land Bank shall decrease 20% for each year Applicant or Applicant's buyer occupies the property as his or her Principal Residence. The commitment to occupy the property as a Principal Residence and the liquidated damage will be secured by a second mortgage on the property.

vii. **Tenant to Home Owner Program.** The Land Bank may provide a preference to Applicants who occupy a property being disposed of pursuant to this Policy as tenants at the time the Land Bank acquires such property. The Land Bank will encourage all first time homebuyers to take home owner education courses and to receive other financial counseling.

viii. **Geographically Targeted Revitalization Programs.** From time to time, the Land Bank may reduce the sales price of properties in a clearly defined geographic area in order to attract multiple private investors, such that the investors might leverage one another's investments. These targeted programs will be created by resolution of the Board of Directors. The resolution will define the geographic boundaries of the program, whether it is limited to a certain category of real property, the percentage by which the sales price is to be discounted, and the duration of the program. These programs will be advertised on the Land Bank's website and in other promotional materials during the course of the program, and the justification for discounting the sales price will be stated in the resolution disposing of each property.

ix. **Additional Discount/Preference Programs.** From time to time, the Land Bank may adopt by resolution of the Board of Directors additional discount or preference programs in furtherance of its purpose or mission.

e. **Enforcement.** In the event a real property disposition is being made in conjunction with a development plan proposed by the Applicant and approved by the Land Bank or with conditions imposed by the Land Bank, the Land Bank shall take appropriate measures to secure the Applicant's completion of the development plan or compliance with the conditions which measures may include the execution of a Development Enforcement Mortgage in favor of the Land Bank.

f. **Leasing.** It may be in the best interest of the Land Bank and the furtherance of its mission to lease its real property under certain circumstances, including, but not limited, to the following circumstances:

i. **Existing Occupants.** In order to avoid displacing persons occupying real property at the time it is acquired by the Land Bank, the Land Bank may enter into lease agreements with any such persons. The Land Bank may offer occupants relocation assistance if the real property is not habitable or if the occupants are unwilling to enter into lease agreements.

ii. **Properties Pending Sale.** The Land Bank may lease an occupied parcel of real property for which a sale is pending in order to allow the occupant to enhance the value of the real property and prevent vandalism to which vacant properties are susceptible.

SECTION 6. LAND BANKING AND PLANNED DEVELOPMENT

In some instances the Land Bank will acquire a dense concentration of properties in a geographic area and may “land bank” those properties for a period of time prior to advertising them for sale until a coordinated redevelopment plan can be developed. Such plan will include input from relevant stakeholders such as the municipality, community development corporations and neighborhood associations. Once a plan has been developed, certain properties may be appropriate for the Land Bank to hold for a longer period of time until necessary funds have been raised for their redevelopment pursuant to the plan, until the Land Bank has acquired other strategic properties nearby, assembled larger parcels, certain development approvals have been granted, or other necessary conditions to effectuate the plan are met. Properties identified as appropriate for affordable housing development (see definition of Affordable Housing in 5.d.iii. of this Policy) through such a planning effort will be advertised as available only for redevelopment that accomplishes the objectives stated in the plan. These objectives may include certain income-restrictions/affordability thresholds, restriction to rental or owner-occupancy, and minimum standards for the quality of renovation or new construction. Other properties in the plan may be deemed appropriate for sale to private developers or individuals using standard methods to advertise properties for negotiated sale. Particular terms of sale (such as design standards or minimum renovation standards) and/or a hierarchy of preferred redevelopment plans may be adopted by the Board of Directors specific to this geographic area as allowable under 5.d.ix. of this Policy. In other instances the Land Bank acquires a scattered assortment of properties and moves to list them for sale soliciting competing offers. In both instances the Land Bank will take into consideration that funds may not yet have been awarded for subsidized projects and that the Applicant may not yet be able to demonstrate proof of funds awarded, and the Land Bank may approve the sale with a closing date to occur once proof of funds is obtained and when the applicant is ready to take title and begin work (i.e. land banking it for the project in order to minimize the buyer’s total carrying costs in light of the community benefits these projects provide).

SECTION 7. MISCELLANEOUS.

- a. **Modification and Amendment; Filing.** These guidelines are subject to modification and amendment at the discretion of the Land Bank and shall be filed annually with all local and state agencies as required under applicable law.
- b. **Posting on the Land Bank Website.** This Policy shall be posted on the Land Bank's website.
- c. **Annual Review.** This Policy shall be reviewed annually by the Land Bank and approved by the Board of Directors of the Land Bank.