

# **CALHOUN COUNTY LAND BANK AUTHORITY**

## **Policies and Procedures Acquisition, Use and Disposition of Real Property**

**As approved and adopted by the Board of Directors on February 27, 2014**

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**CALHOUN COUNTY LAND BANK AUTHORITY  
ACQUISITION, USE AND DISPOSITION OF REAL PROPERTY**

The acquisition, use and disposition of properties shall be guided by the following policies and at all times be consistent with the authority granted by the Constitution of Michigan, the laws of the State of Michigan, the articles of incorporation and bylaws of the Calhoun County Land Bank Authority and the public purposes set forth therein.

**Section 1. Role as a Public Authority.**

- 1.1 Public Authority. The CCLBA is organized and operated as a land bank authority under the provisions of the Michigan Land Bank Fast Track Act, 2003 PA 258, 124.751 et. Seq. (the “Land Bank Act”) and the Intergovernmental Agreement by and between the Michigan Land Bank Fast Track Authority and the Treasurer of the County of Calhoun, Michigan dated December 7, 2006.
- 1.2 Governing Authority. The CCLBA Board of Directors shall be the governing body of the CCLBA and shall have general charge of the affairs, property and assets of the CCLBA. Except as otherwise provided in the articles of incorporation or the bylaws of the CCLBA, all powers, duties and functions of the CCLBA conferred by the Land Bank Act, the Intergovernmental Agreement, the articles of incorporation, bylaws, other state statutes, common law, court decisions, or otherwise shall be exercised, performed, or controlled by the Board of Directors.
- 1.3 Purposes. The CCLBA is established to acquire, hold and transfer interests in real property throughout Calhoun County to (a) promote redevelopment and reuse of vacant, abandoned, foreclosed or other properties, (b) support targeted efforts to stabilize neighborhoods, (c) stimulate residential, commercial and industrial development, and (d) undertake its actions in ways that are consistent with goals and priorities established by local government partners and other community stakeholders.

**Section 2. Acquisition of Real Property.**

- 2.1 Sources of Property Inventory. Sources of real property inventory of the CCLBA include, but are not limited to, the following: (a) tax foreclosed transfers from the State of Michigan, Calhoun County, or local government units; (b) donations from private persons and entities; (c) market purchases; and (d) land banking transfers contemplating the simultaneous acquisition and disposition of property. In determining the nature and extent of properties to be acquired, the CCLBA will also give consideration to criteria including, but not limited to, the underlying values of the subject properties, the financial resources available for acquisitions, and the operational capacity of the CCLBA.
- 2.2 Policies Governing the Acquisition of Properties. In determining which, if any, properties will be acquired by the CCLBA, the CCLBA will give consideration to the following factors in no particular order:

- (a) Proposals and requests by nonprofit corporations defined as tax-exempt entities under Section 501(c)(3) of the Internal Revenue Code that identify specific properties for ultimate acquisition and redevelopment and are part of a redevelopment strategy consistent with the stated purposes of the CCLBA.
- (b) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment and are part of a redevelopment strategy consistent with the stated purposes of the CCLBA.
- (c) Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.
- (d) Improved properties that are the subject to an existing order for demolition of the improvements and properties that meet the criteria for demolition of improvements.
- (e) Vacant properties that could be placed into a Side Lot Disposition Program.
- (f) Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
- (g) Properties that would form a part of a land assemblage development plan.
- (h) Properties that will generate operating resources for the functions of the CCLBA.
- (i) Properties that are environmentally contaminated. If the CCLBA is considering the acquisition of property by means of 2.1 (b), (c), (d), the CCLBA may require a Phase 1 Environmental Assessment and other appropriate inquiries on residential, commercial and industrial property. If any adverse conditions are determined, a remediation plan must be in place and the necessary funding available for the CCLBA.
- (j) Properties that will result in an urban space that benefits the community including but not limited to: a) green or community space; b) parks; or c) urban gardens.
- (k) Properties for which title issues may be an obstacle to redevelopment for its highest and best use.

2.3 Acquisitions through the County Treasurer Tax Foreclosure Process. The CCLBA may acquire properties through the tax foreclosure process authorized by Public Act 123 of 1999.

2.4 Transaction Agreements. In all property transfers, a transaction agreement (e.g. purchase agreement or other written document) will be approved in advance by the CCLBA and reviewed by the interested party. In the case of a land banking relationship, such a transaction agreement will generally be in the form of a Land Banking Agreement prepared in accordance with Section 6. These transaction agreements shall be in form and content as deemed by the CCLBA to be in the best interest of the CCLBA, and shall include, to the extent feasible, specification of all documents and instruments contemplated by the transaction as well as the rights, duties and obligations of the parties.

2.5 Title Assurance. For all property acquired by the CCLBA through 2.1 (b), (c), (d) the CCLBA generally requires a certificate of title based upon a full title examination and, in the case of Land Banking Agreements, a policy of title insurance insuring the CCLBA subject to such outstanding title exceptions as are acceptable to the CCLBA in its sole

discretion.

- 2.6 Environmental Concerns. CCLBA reserves full and complete discretion to require in all transaction agreements that satisfactory evidence be provided to the CCLBA that the property is not subject to environmental contamination as defined by federal or state law.
- 2.7 Property Maintenance Concerns. Property with immediate maintenance requirements will not be acquired by the CCLBA through 2.1 (b), (c), (d) without a secured funding source by the CCLBA. Some properties may present unusual or extenuating circumstances due to lack of funding. The CCLBA reserves the right to evaluate and consider approving such properties for conduit transfer on a case-by-case basis.
- 2.8 Acquisition proposals that do not meet the standards outlined in this section are subject to Section 7.1.

### **Section 3. Property Disposition.**

- 3.1 Impact of Property Transfer. The CCLBA shall consider the impact of a property transfer, including without limitation any form of disposition, on short and long-term neighborhood and community development plans.
- 3.2 Priorities for Property Use. Except where limited by the terms of the CCLBA's acquisition, the CCLBA may, at its discretion, give priority to the use of property listed below in ranking order:
  - (a) Homeownership. Property that will be occupied by the homeowner as a primary residence.
  - (b) Economic Development. Including use and development of property that promotes job creation and that generates revenue for CCLBA operations and future CCLBA investment in Calhoun County communities.
  - (c) Rehabilitation. Abandoned, vacant or foreclosed property that will be rehabilitated and put back into productive use.
  - (d) Greening. Vacant unimproved property that can be used for gardening or greening purposes for the neighborhood.
  - (e) Side Lots. Residential vacant property that can be placed into the CCLBA's side lot program.
  - (f) Mixed-use Development. Vacant, abandoned, tax foreclosed or other residential or commercial property that can be redeveloped into a multi-use development that will become tax generating for Calhoun County.
- 3.3 Priority of Transferees. Except where limited by the terms of its acquisition, the CCLBA may, at its discretion, give priority to the transferee listed below in ranking order:
  - (a) Conveyance to Individuals who will Own and Occupy Residential Property.
  - (b) Non-Profit Organizations Who are Dedicated to the Redevelopment and Revitalization Purposes Described in 3.2.
  - (c) Governmental Entities or Qualified Developers Seeking to Obtain the Land for

Purposes Described in Section 3.2 above.

- (d) Other Nonprofit or For-Profit entities or community groups seeking to obtain property for reinvestment and revitalization purposes described in section 3.2 above. The CCLBA may also, at its discretion, give priority to transferees including: nonprofit institutions such as academic institutions and religious institutions; or entities that are a partnership, limited liability corporations, or joint venture comprised of a private nonprofit corporation and a private for-profit entity.

3.4 Transferee Qualifications. All applicants seeking to acquire property from the CCLBA, or to enter into transaction agreements with the CCLBA, will be required to provide as part of the application such information as may be requested by the CCLBA, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, (b) the applicants prior experience in developing and managing real property, (c) a list of all parcels, with parcel number and address, the applicant owns in Calhoun County along with the tax status of each parcel .

3.5 Reserved Discretion. The CCLBA reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities. Relevant criteria in such a decision may include but are not limited to:

- (a) Parties who own real property within Calhoun County that have any unremediated citation for violation of state or local codes and ordinances.
- (b) Parties who currently own real property within Calhoun County that became delinquent in ad valorem tax payments and remained delinquent in ad valorem tax payments during their ownership.
- (c) Parties who previously owned properties within Calhoun County that were transferred to a local, state, or federal government as a result of tax foreclosure proceedings within the last five (5) years.
- (d) Parties lacking of proof of financial capacity and well-defined site plans, at the request of CCLBA, to remediate the property, should it be environmentally contaminated.
- (e) Parties who have failed to perform in prior transactions with the CCLBA.
- (f) Parties that are barred from transactions with local government entities.
- (g) Parties that are unable to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the CCLBA.

3.6 Covenants, Conditions and Restrictions. All conveyances by the CCLBA to third parties shall include such covenants, conditions and restrictions as the CCLBA deems necessary and appropriate in its sole discretion to ensure the use, rehabilitation and redevelopment of the property in a manner consistent with the public purposes of the CCLBA. In the discretion of the CCLBA, such requirements may take several forms including but not limited to a deed creating a use restrictions, recorded restrictive covenants, subordinate financing being held by the CCLBA, contractual development agreements, local hiring requirements or any combination thereof.

3.7 Rehabilitation. All rehabilitation projects may 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 restriction or lien securing such performance.

- 3.8 Zoning. The proposed use of real property transferred by the CCLBA must be consistent with current zoning requirements. Exceptions to this policy may be made only in these instances where, through a written option or other agreement with the CCLBA, the transferee at its cost and in conjunction with the CCLBA, seeks and obtains approval for non-conforming use or an appropriate zoning change from the appropriate local governmental entity prior to the transfer of the property.

#### **Section 4. Side Lot Program.**

- 4.1 Side Lot Transfers. Property may be acquired by the CCLBA and transferred to individuals in accordance with the following policies and within the hierarchical disposition priorities established in Section 3.2.
- 4.2 Qualified Side Lot Properties. Parcels of property eligible for inclusion in the Side Lot Program will generally meet the following minimum criteria:
- (a) The property will be residential vacant unimproved real property.
  - (b) The property will be of insufficient size to permit independent development.
  - (c) The CCLBA will consider, on a case by case basis for the Side Lot Program, property that is of sufficient size to permit independent development (i.e. "buildable") within the cities of Albion and Battle Creek so long as the property is less than 20,001 square feet.
  - (d) Waterfront property in Calhoun County is excluded from the Side Lot Program.
- 4.3 Priority of Transferees. Except where limited by the terms of its acquisition, the CCLBA may, at its discretion, give priority to the transferee listed below in ranking order:
- (a) Adjacent homeowners who own and occupy the physically contiguous residential property with not less than 75% common boundary line on one side (left or right) and the homeowner needs the contiguous property for a driveway or to address other local code compliance issues.
  - (b) Adjacent homeowners who own and occupy the physically contiguous residential property with not less than 75% common boundary line on one side (left or right).
  - (c) Adjacent homeowners who own and occupy the physically contiguous residential property with not less than 50/% common boundary line behind the side lot property.
  - (d) Homeowners who own and occupy the residential property directly across the street from the side lot property.
  - (e) Homeowners who own property on the same block as the side lot property. Block is defined as property located on either side of one street between two intersections in which the side lot is located.

#### **4.4 Policies for Side Lot Transferees.**

- (a) The CCLBA reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities described in

### Section 3.5.

#### 4.5 Side Lot Pricing.

- (a) Parcels of property that meet the qualifications of the Side Lot Program will be eligible for transfer for nominal consideration, as set in the adopted fee schedule (see Appendix A).
- (b) Deed Without Warranty. Properties conveyed through the Side Lot Program from the CCLBA to private parties will be by Quit Claim Deed.

#### 4.6 Additional Requirements.

- (a) In the event that, after review of priority as outlined in Section 4.3, there remains multiple adjacent property owners desiring to acquire the same 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, or pursuant to some other determination made by the CCLBA.
- (b) The CCLBA will not convey more than two side lot properties to a transferee in a given year through the Side Lot Program. Additional side lots may be purchased at market value subject to Section 7(c).

### **Section 5. Factors in Determining Consideration Due Upon Transfers.**

5.1 Consideration Generally. The following factors shall constitute general guidelines for determination of the consideration to be received by the CCLBA for the transfer of properties. In each and every transfer of real property the CCLBA shall require good and valuable consideration in an amount not less than the lower of the fair market value of the property or the Property Costs. "Property Costs" shall mean the aggregate costs and expenses of the CCLBA 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 CCLBA allocable to the property. The amount of consideration shall be determined by the CCLBA in its sole discretion. The consideration to be provided by the transferee to the CCLBA may take the form of cash, a payment plan (e.g. lease or land contract) if approved by the CCLBA, performance of contractual obligations (e.g. sweat equity), imposition of restrictive covenants, or other obligations and responsibilities of the transferee, or any combination thereof.

#### 5.2 Transfers to Nonprofit Entities for Affordable Housing.

- (a) Transfers of property to nonprofit entities for the development, operation or maintenance of affordable housing will generally require consideration not less than the Property Costs. Consideration will generally be established at a level between the Property Costs and fair market value of the property.
- (b) A key factor in determining the amount of and method of payment of the consideration shall be to facilitate the development and simultaneously to ensure that the property is dedicated over an appropriate period of time for affordable housing.

#### 5.3 Transfers to Governmental Entities.

- (a) To the extent that transfers of property to governmental entities are designed to be held by such governmental entities in perpetuity for governmental purposes, the aggregate consideration for the transfer will generally be based upon deed

restrictions upon the use of the property, unless other forms or levels of consideration deemed in the best interest of the CCLBA.

- 5.4 Transfers of Property at Open Market Conditions. Property that is transferred on the open real estate market, whether through auction or negotiated transfers, with or without restrictions as to future use, will generally be disposed for consideration equal to the fair market value of the property.
- 5.5 Side Lot Disposition Program. 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 Program established in Section 4.
- 5.6 Land Bank Issued Financing (e.g. Land Contract). Land bank issued financing will be a contract between the CCLBA and the transferee of real property in which CCLBA provides the financing for the purchase of the property based on the agreed-upon purchase price. The transferee is responsible for the repayment of the loan in installments. Through this arrangement, the CCLBA will retain the title to the property, while permitting the transferee to take possession of the property. The agreed upon purchase price will be paid in periodic installments, and the CCLBA may require a balloon payment as part of the agreed upon contract. Once the full purchase price, including any interest, fees and development agreements are completed, the CCLBA will then convey legal title to the property transferee. In determining which, if any, properties will be sold by land bank issued financing by the CCLBA, the CCLBA will give consideration to the following factors:
  - (a) Down Payment Amount. The initial down payment shall be an amount equal to: 10% of the sales price or a minimum amount of \$2,000, whichever is greater.
  - (b) Interest Rate. The CCLBA may collect interest on the contract in an amount not to exceed 6%. The interest rate will be set by the CCLBA Board of Directors.
  - (c) Development Agreement. Land bank issued financing may be used as a means to enforce a development agreement. The contract may include a time frame for redevelopment to be completed.
  - (d) Renegotiation. All terms of the contract may be renegotiated by the CCLBA and the transferee at any time in the discretion of the CCLBA.

## **Section 6. Land Banking Program.**

- 6.1 The CCLBA Land Banking Program, consists of transactions in which a grantor transfers real property to the CCLBA and the property is held by the CCLBA pending a transfer back to the original grantor, to a grantee identified in a Land Banking Agreement, or to a third party selected by the CCLBA. A Land bank Agreement is defined as a written agreement between a grantor and the CCLBA which identifies the property, the length of the banking term, the potential grantee or grantees, the range of permissible uses of the Property following transfer by the CCLBA, the permitted encumbrances on the property, the rights and duties of the parties, the responsibility of the grantor for the holding costs, the possible advance funding of holding costs, and the forms of the instruments of conveyance and such other matters as appropriate. Holding costs are defined as any and all costs, expenses, and expenditures incurred by the CCLBA, whether as direct disbursements, as pro rata costs, or as administrative costs, that are attributable to the ownership and maintenance of a tract of Property. The CCLBA shall maintain records of the monthly Holding Costs for each Property.

- 6.2 The goals of this land banking program include, but are not limited to, the acquisition of real property for or on behalf of a governmental entity or a nonprofit corporation in order to:
- (a) Permit the redevelopment and reuse of vacant, abandoned, foreclosed or other properties;
  - (b) Support targeted efforts to stabilize neighborhoods, targeted commercial areas, or other targeted areas;
  - (c) Stimulate residential, commercial or industrial development; and
  - (d) Hold parcels of land for future strategic governmental purposes.
- 6.3 The CCLBA is not required to enter into a Land Banking Agreement with any person or entity, and at all times retains full discretion and authority to decline to enter into a Land Banking Agreement. These policies and procedures are applicable only to real property of the CCLBA which is acquired by the CCLBA in accordance with an executed Land Banking Agreement and are not otherwise applicable to real property acquired by the CCLBA pursuant to any other agreements or procedures.
- 6.4 Eligible Property. Property which is eligible for a Land Banking Agreement must either be
- (a) unimproved real property located within Calhoun County, (b) real property with unoccupied single or multi-family residences located within Calhoun County, (c) vacant commercial or industrial property located within Calhoun County.
- (a) In the event that a tract of property contains improvements which are to be demolished or removed, such property may qualify as eligible property for a Land Banking Agreement so long as adequate and sufficient funds are placed in escrow at the time of the Land Banking Agreement closing so as to assure that all improvements will be demolished and removed within sixty (60) days of closing.
  - (b) Property that is ineligible for a Land Banking Agreement includes all other forms of improved real property, all real property which is occupied, and all real property that has been identified by the United States Environmental Protection Agency, the Environmental Protection Agency of the State of Michigan as containing hazardous substances and materials.
- 6.5 Eligible Grantors and Grantees. Parties eligible to be a Grantor or a Grantee are governmental entities and nonprofit corporations.
- 6.6 Local Taxing Jurisdiction Support. The CCLBA may request a letter of support regarding the land banking agreement from the local taxing jurisdiction in which the property is located.
- 6.7 Title. Unless and except to the extent expressly authorized in a Land Banking Agreement, property transferred to the CCLBA pursuant to a Land Banking Agreement shall be fee simple title free and clear of all liens and encumbrances. A policy of title insurance may be issued in favor of the CCLBA as the insured party at the closing pursuant to the Land Banking Agreement. A Land Banking Agreement containing the following may be approved by the CCLBA:
- (a) Governmental liens for water and sewer, and governmental liens for nuisance abatement activities or code enforcement activities may exist as a matter of record title at the time of such closing if and only if such liens are expressly acceptable to

the CCLBA and are subject to waiver or discharge by the governmental entity holding such liens without cost to the CCLBA.

(b) At the time of closing pursuant to a Land Banking Agreement, all ad valorem taxes which are due and payable on the property must be paid in full.

6.8 Length of Banking Term. A Land Banking Agreement may permit a maximum banking term of thirty-six (36) months for transactions. Any requests for an extended period beyond thirty-six (36) months may be granted by the Board of Directors.

6.9 Transfer at Request of Grantor. A Land Banking Agreement shall authorize a Grantor to request a transfer of the Property by the CCLBA to a Grantee at any time within the banking term.

(a) A conveyance by the CCLBA to the Grantee identified pursuant to a Land Banking Agreement shall occur within thirty (30) days of receipt of a written request for a transfer.

(b) At the time of transfer to the Grantee, the full amount of Holding Costs incurred by the CCLBA attributable to the property shall be paid to the CCLBA at closing. The CCLBA shall provide to the Grantor a statement of the Holding Costs attributable to the Property.

(c) At the time of the transfer by the CCLBA to the Grantee the CCLBA shall impose such restrictions and conditions on the use and development of the property in accordance with the Land Banking Agreement.

(d) Conveyance by the CCLBA to a Grantee shall be by Quit Claim Deed.

6.10 Land Banking Agreement Closing. Within a time period specified in a fully executed Land Banking Agreement, a closing of the transfer of the Property to the CCLBA shall occur. At such closing the fully executed instrument of conveyance and other closing documents shall be delivered by the appropriate party to the appropriate parties. The appropriate documents shall be immediately recorded, and a title insurance policy shall be issued. All costs of closing shall be borne by the Grantor.

6.11 Holding Costs. Holding Costs shall be paid as a condition precedent to a transfer of Property from the CCLBA. Either the Grantor or the Grantee can request in writing at any time a statement of the Holding Costs, which statement will be provided by the CCLBA within fifteen (15) business days of receipt of the request. The CCLBA shall also have the right to request in writing that the Grantor or Grantee reimburse on written demand the CCLBA for Holding Costs. In the event that the CCLBA is not timely reimbursed for its Holding Costs in response to its written request for reimbursement the CCLBA may request a transfer pursuant to subsection 6.10.

6.12 Delegation of Authority to Executive Director. The Executive Director, in conjunction with an officer of the Board of Directors and after review and approval by the CCLBA General Counsel, shall have full power and authority to enter into and execute Land Banking Agreements having form and content consistent with the policies and procedures adopted by the CCLBA Board of Directors. The Executive Director shall summarize for the Board of Directors on a regular basis the nature and number of Land Banking Agreements, the aggregate Holding Costs, and all transfers to and from the CCLBA pursuant to Land Banking Agreements. Any provision of any Land Banking Agreement not consistent with these policies and procedures shall require the express

approval of the Board of Directors.

6.13 Land Banking proposals that do not meet the standards outlined in this section are subject to Section 7.1.

### **Section 7. Approval of Property Transfers and Acquisitions.**

7.1 Transfers Requiring Board of Directors Approval. The Board of Directors must approve all of the following property transfers:

- (a) All transfers and acquisitions that are an exception to the policies and procedures governing the CCLBA.
- (b) All non side-lot transfers in which the property in the hands of the transferee will be exempt from property taxes.
- (c) Transfers involving five (5) or more parcels to one (1) grantee within one (1) calendar year. Please note the number of side lots that any one person can buy is subject to Section 4.6(b).

7.2 Transfers and Acquisitions Requiring Executive Director Approval. With the exception of those transfers and acquisitions described in section 7.1, all property transfers and acquisitions (together with all related documents necessary to transfer title to or from the CCLBA) may be approved and executed by the Executive Director and/or the Board Chair of the CCLBA. All property transfers will be reported in writing to the Board of Directors at the immediately following Board meeting.

### **Section 8. Interpretations of Policies and Procedures and Revisions.**

8.1 Interpretations. CCLBA's Executive Director shall have the sole authority to interpret these policies and procedures. CCLBA's Executive Director may adopt additional internal administrative guidelines to clarify, expand, or provide further detail on any of the policies contained herein. Any such internal administrative guidelines must be in writing and must not contradict these policies and procedures.

8.2 Revisions. These policies and procedures will be revised as needed and adopted by CCLBA's Board of Directors. CCLBA will maintain a record of all policies and procedures it has adopted and the date revised policies were adopted.

**APPENDIX A**

**Fee Schedule**

Current recording fees as determined by the Register of Deeds will be added to the purchase price outlined below.

Up to 10,000 square feet	\$ 200.00
10,001 – 12,000 square feet	\$ 300.00
12,001 – 14,000 square feet	\$ 400.00
14,001 – 16,000 square feet	\$ 500.00
16,001 – 18,000 square feet	\$ 600.00
18,001 – 20,000 square feet	\$ 700.00
20,001	Fair Market Value, as determined by the municipal assessor, is the starting point for all price negotiations