

## **I. Policies and Procedures**

### **Westmoreland County Land Bank Administrative Policies and Procedures As approved and adopted by the Board of Directors on January 28, 2014**

These policies and procedures are a codification of all policies and procedures of the Westmoreland County Land Bank (hereinafter “WCLB”).

#### **Section 1. Role as a Public Body.**

**1.1 Public Entity .**WCLB is a public entity authorized by state law and created pursuant to Ordinance #10-2013 of 2013 approved by the Westmoreland County Board of Commissioners on December 19, 2013.

**1.2 Governing Authority.** The core governing documents of WCLB are 68 Pa.C.S.A Section 2101 et seq., Act 153 of 2012 (hereinafter the “Land Bank Act”), Ordinance # 10-2013 of 2013 referenced above, the Articles of Incorporation, and the By-laws.

**1.3 Purpose.** The purpose of WCLB will be to effectively facilitate the return of blighted and abandoned properties to productive reuse through creative leadership that engages key partners to leverage a variety of resources.

#### **Section 2. Property Acquisitions by the WCLB**

**1.1 Sources of Property Inventory.** Sources of real property acquisitions of WCLB include, but are not limited to, the following:

- (a) transfers from local governments or authorities;
- (b) acquisitions by WCLB at tax foreclosures or mortgage foreclosures;
- (c) donations from private entities;
- (d) market purchases;
- (e) conduit transfers contemplating the simultaneous acquisition and disposition of property.

**2.2 Policies Governing the Acquisition of Properties.** In determining which, if any, properties shall be acquired by WCLB, WCLB shall give consideration to the following factors:

- (a) Proposals and requests by private and nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment.
- (b) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.
- (c) Residential properties are available for immediate occupancy without need for substantial rehabilitation.
- (d) Improved properties that are appropriate 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 WCLB.

In the case of an offer to donate a property to WCLB, staff should consider all of the above factors as well as those described in paragraph 2.3 below. WCLB will not determine the value of the donated property for the purpose of tax benefits but will provide a letter describing the property donated.

**2.3 Process for Acquiring Properties.** A transaction agreement must be executed by WCLB and the grantor of the property except in those cases when WCLB acquires the property at a mortgage or tax foreclosure sale. Act 153 of 2012, Section 2117 (c) (3) provides that all of the following apply to judicial sales:

(i) Notwithstanding section 612 of the Real Estate Tax Sale Law, the form, substance and timing of the land bank's payment of the sales price may be according to the agreement as is mutually acceptable to the plaintiff and the land bank if all of the following apply:

(A) A judicial sale is ordered pursuant to a judgment on a tax claim.

(B) The purchaser of the property is the land bank.

(C) The sales price is an amount agreed to by the land bank and the plaintiff in the claim.

(ii) The obligation of the land bank to perform in accordance with the agreement under subparagraph (i) shall be deemed to be in full satisfaction of the tax claim which was the basis for the judgment.

(iii) The land bank, as purchaser at the sale, shall have an absolute title to the property sold, free and discharged of tax and municipal claims, liens, mortgages, ground rents, charges and estates.

In the case of conduit transfers such a transaction agreement will generally be in the form of an Acquisition and Disposition Agreement prepared in accordance with these Policies. WCLB staff is authorized to create transaction agreements in the form and content as deemed by WCLB to be in the best interest of the WCLB, 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. Prior to the execution of an agreement of sale to purchase a property, WCLB staff is authorized to prepare an underwriting agreement that will:

- 1) Determine that the purchase is consistent with paragraph 2.2 above.
- 2) Determine if clear title can be conveyed by the transferor to the WCLB (see 2.4 below).
- 3) Determine if there are any environmental or structural issues that should be resolved prior to the purchase by WCLB (see paragraph 2.5 below).
- 4) If the property is not available for nominal consideration, determine a fair value of the property consistent with the policies in this document.

**2.4 Title Insurance.** In acquisitions of property by WCLB through transaction agreements the WCLB 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 WCLB subject to such outstanding title exceptions as are acceptable to WCLB in its sole discretion. In those circumstances when the title is not insurable, WCLB may elect to acquire the property with the intention of initiating a quiet title action.

**2.5 Environmental Concerns.** WCLB reserves full and complete discretion to require in all transaction agreements that satisfactory evidence be provided to WCLB that the property is not subject to environmental contamination as defined by federal or state law. At a minimum, seller shall complete a disclosure noting any known potential environmental issues.

### **Section 3. Priorities for Property Repurposing**

**Section 3.1 Community Improvement Purposes.** In transferring properties to organizations or individuals WCLB shall keep in mind community improvement purposes consistent with:

- Neighborhood revitalization plans;
- Return of the property to productive tax-paying status;
- Land assemblage for economic development;
- Long term "banking" of properties for future strategic uses.

### **Section 3.2 Neighborhood and Community Development Considerations**

As indicated above, WCLB reserves the right to consider the impact of a property transfer on short- and long-term neighborhood and community development plans. In doing so, the WCLB may prioritize the following in any order in which it deems appropriate:

- the preservation of existing stable and viable neighborhoods;
- neighborhoods in which a proposed disposition will assist in halting a slowly occurring decline or deterioration;
- neighborhoods which have recently experienced or are continuing to experience a rapid decline or deterioration;
- geographic areas where market conditions are weak for the purposes of residential or commercial development;
- increasing the tax base of Westmoreland County and creating opportunities for employment.

### **Section 4. Conveyance of Properties**

#### **4.1 Definitions**

"*Property Costs*" shall be defined as the aggregate costs and expenses of the

WCLB 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 WCLB allocable to the property.

“*Transfer Closing Costs*” shall be defined as all costs incurred by WCLB in the sale of the property to the transferee including but not limited to transfer taxes, legal fees, filing fees, notary fees, title fees, etc.

“*Transaction Fee*” shall be defined as a fee paid by the transferee of the property at closing in the amount of 2% of the selling price or a set fee as determined by the complexity of the project but not less than \$750.

The consideration to be provided by the transferee to WCLB 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.

#### **4.2 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 may, at the discretion of the WCLB, consist of the “Property Costs” and “Transfer Closing Costs” to be paid in cash as well as a deed restriction upon the use of the property.
- (b) To the extent that transfers of property to governmental entities and authorities are anticipated as conduit transfers by such governmental entities to third parties, the aggregate consideration for the transfer may, at the discretion of WCLB, consist of not less than “Property Costs”, “Transfer Closing Costs” and “Transaction Fee” to be paid in cash. Depending on the nature of the end use of the property by the third party, the WCLB reserves the right to sell the property for fair market value plus all fees and costs referenced above.

#### **4.3 Transfers to Other Entities**

In the case of transfers of property to other entities for development, other than side yard transfers described in Section 6, the aggregate consideration for the transfer may, at the discretion of WCLB consist of not less than the “Property Costs”, “Transfer Closing Costs”, the “Transaction Fee” and not more than the fair market value as determined by the WCLB plus all costs and fees. Non-monetary consideration, such as in-kind services, that fulfill the mission and goals of WCLB may be considered.

**4.4 Transferee Qualifications.** All applicants seeking to enter into Acquisition and Disposition agreements with WCLB will be required to provide as part of the application such information as

may be requested by WCLB, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, (b) its prior experience in developing and managing real property, and (c) affidavit indicating no delinquent taxes on other properties wherein the applicant has ownership.

**4.5 Reserved Discretion.** WCLB reserves full and complete discretion to decline applications from individuals and entities that meet any of the following criteria:

- (a) failure to perform in prior transactions with WCLB;
- (b) ownership of properties that became delinquent in tax payments and remain delinquent in tax payments during their ownership;
- (c) parties that have been debarred from transactions with local, state or federal government;
- (d) parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the WCLB;
- (e) ownership of properties that have any un-remediated citation(s) for violation of state and local codes and ordinances, and;
- (f) properties that have been used by the purchaser or a family member of the purchaser as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).

**4.6 Covenants, Conditions and Restrictions.** All conveyances by the WCLB to third parties shall include such covenants, conditions and restrictions as the WCLB 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 WCLB. Such requirements may take the form of a deed creating a defeasible fee or reversion, recorded restrictive covenants, subordinate financing being held by WCLB, contractual development agreements, or any combination thereof. WCLB will also include language in the Disposition Agreement that the transferee is precluded from appealing the post development assessed value as determined by the County Assessment office for a period of five years following the transfer of the property.

**4.7 Options.** Options are available for 10% of the parcel price for up to a six-month period with extensions at the discretion of WCLB. This fee will be credited to the parcel price at closing. If closing does not occur, the fee is forfeited. WCLB may charge a fee for the extension of the option agreement; said fee shall not be credited against the purchase price. All option agreements are subject to all policies and procedures of WCLB pertaining to property transfers.

**4.8 Deed without Warranty.** All conveyances from WCLB to third parties shall be by Quitclaim Deed.

**4.9 Prescribed Process for Conveying Properties.** The process for conveying a property from the WCLB to another entity shall include a completed application from the proposed transferee and underwriting report prepared by the WCLB staff that verifies that the applicant is qualified consistent with the provisions in Paragraphs 4.4 and 4.5. Conveyances to transferees in excess of \$100,000 shall be approved by the WCLB Board. A Disposition Agreement shall be prepared by the WCLB staff that includes terms and conditions for the reuse of the property as well as description of how the terms and conditions will be monitored in the future.

**4.10 Prescribed Process for Conveying Properties to Public Officials or Public Employees.**

In addition to the requirements included in section 4.9, the conveyance to a Public Official, as defined by 65 Pa.C.S.A. §1102, or a Public Employee, as defined by 65 Pa.C.S.A. §1102, shall adhere to the following criteria:

- (a) the WCLB shall discuss the proposed sale in a meeting open to the public;
- (b) the WCLB shall vote on the sale, with any board member that has a potential Conflict of Interest abstaining from the vote;
- (c) the Public Official or Public Employee shall provide a signed opinion by the Solicitor or Legal Counsel representing the Municipality/School District discussing the proposed sale, the issues of Conflict of Interest, as discussed in Title 65 of the Pennsylvania Statutes, and Improper Influence, as discussed in Title 65 of the Pennsylvania Statutes, and an opinion that the proposed sale is in no way a violation of the laws of the Commonwealth of Pennsylvania.
- (d) the WCLB shall guarantee that the property to be conveyed is not encumbered by a lien created by the Municipality or School District that the Public Official represents. The WCLB shall not convey a property to a Public Official where such an encumbrance exists.

**Section 5. Owner-Occupant Policy.**

**5.1 Requirements and Conditions.** The vast majority of the properties WCLB will acquire will be vacant. However, in the event that it acquires a property that is the primary place of residence for an owner-occupant through the tax sales process or other means, it shall make best efforts not to displace the owner-occupant and establish payment plans for any delinquent liens that have been acquired by the WCLB. To this end, if feasible, WCLB may offer to lease the premises to the prior owner-occupant at fair market value for a period not less than six months. The residence shall remain the primary residence of the household during the lease period.

**Section 6. Side Lot Disposition Program.**

**6.1 Side Lot/Structure Transfers.** Improved (those with an existing structure that is feasible to rehabilitate) or unimproved parcels may be acquired by WCLB, and transferred to individuals owning contiguous property in accordance with the policies described below. The transfer of any given improved or unimproved parcel in the Side Lot Disposition Program is subject to override by higher priorities as established by the WCLB.

**6.2 Qualified Properties.** Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:

- (a) The parcel shall be a vacant improved or unimproved real property;
- (b) The parcel shall be physically contiguous with not less than a 75% common boundary line at the side;
- (c) Intended use for the improved or unimproved parcel must be disclosed by the transferee and such use shall be consistent with local codes including but not limited to zoning codes.

### **6.3 Side Lot Transferees.**

- (a) All transferees must own the contiguous property, and priority is given to owner-occupied transferees.
- (b) The transferee must not own any real property that is subject to any unremediated citation(s) of violation of state and local codes and ordinances.
- (c) The transferee must not own any real property that is tax delinquent.
- (d) The transferee must not have been the prior owner of any real property in the County that was acquired by a local government through execution of a judgment relating to municipal liens.

### **6.4 Pricing.**

- (a) Parcels of property that are not capable of independent development, i.e., the parcel is not buildable under local zoning laws, may be transferred for a price to be determined by the WCLB consistent with value of the property, if any, as determined by WCLB plus “Transfer Costs” and “Transaction Fees”.
- (b) Parcels that are capable of independent development shall be transferred for consideration in an amount not less than the “Property Costs”, “Transfer Costs”, and “Transaction Fees” as described above.

### **6.5 Additional Requirements.**

- (a) As a condition of transfer of an improved or unimproved parcel, the transferee must enter into an agreement that the parcel is not subject to sale, subdivision or partition within a five-year period following the date of the transfer.
- (b) In the event that multiple adjacent property owners desire to acquire the same side parcel, the improved or unimproved parcel shall either be transferred to the highest bidder for the property. An unimproved parcel may be divided and transferred among the interested contiguous property owners; the cost of the subdivision shall be borne by the property owners.
- (c) The improved or unimproved parcel must remain a separate parcel for assessment purposes so the WCLB may benefit from tax recapture going forward.
- (d) As a condition of transfer, should the transferee require one or all of the reversionary requirements be waived, a fee equal to 3.5% for owner-occupied residential and 7% for non-owner-occupied residential, multi-residential, commercial and/or industrial, will be assessed to the fair market value of the properties.