

# Resolution 16-15

## Finger Lakes Regional Land Bank Corporation Board of Directors

*Moved by Cindy Lorenzetti and seconded by Gary Westfall*

### **RESOLUTION ADOPTING A REAL PROPERTY DISPOSITION POLICY OF THE FINGER LAKES REGIONAL LAND BANK CORPORATION**

**WHEREAS**, the New York Public Authorities Law §2824(e) requires the Board of the Finger Lakes Regional Land Bank Corporation (the "Land Bank") to adopt a Real Property Disposition Policy for the Land Bank; and

**WHEREAS**, the proposed Real Property Disposition Policy was drafted and reviewed by the Governance Committee of the Land Bank, in consultation with counsel, on July 5<sup>th</sup>, 2016, and forwarded to the Board for review; and

**WHEREAS**, the Board has received the proposed Real Property Disposition Policy, have had the opportunity to review it, and said policy is attached to this resolution as Appendix A;

**NOW, THEREFORE, BE IT RESOLVED** by the Corporation that the proposed Real Property Disposition Policy as attached to this Resolution as Appendix "A" is hereby adopted effective immediately.

I, Wilfred Bordeau, Secretary of the Finger Lakes Regional Land Bank Corporation, a corporation organized and existing under the laws of the State of New York (the "Corporation"), do hereby certify that the above is a true and correct copy of a resolution duly adopted at a meeting of the Board of Directors of the Corporation duly held and convened on August 9th, 2016, at which meeting a duly constituted quorum of the Board of Directors was present and acting throughout, and that such resolution has not been modified, rescinded, or revoked, and is at present in full force and effect.

IN WITNESS THEREOF, the undersigned has affixed his signature this 9<sup>th</sup> day of August, 2016. The Corporation has no corporate seal.

x Wilfred Bordeau  
Wilfred Bordeau  
Its Secretary

# Resolution 16-15

## Finger Lakes Regional Land Bank Corporation Board of Directors

### RESOLUTION ADOPTING A REAL PROPERTY ACQUISITION POLICY OF THE FINGER LAKES REGIONAL LAND BANK CORPORATION

	Yes	Nay	Abstain	Absent
Robert Hayssen	[ ]	[ ]	[ ]	[ X ]
Ron Serven	[ X ]	[ ]	[ ]	[ ]
Gary Westfall	[ X ]	[ ]	[ ]	[ ]
Bill Bordeau	[ X ]	[ ]	[ ]	[ ]
Cindy Garlick-Lorenzetti	[ X ]	[ ]	[ ]	[ ]
Greg Lazzaro	[ X ]	[ ]	[ ]	[ ]
Nick Sciotti	[ X ]	[ ]	[ ]	[ ]

**FINGER LAKES REGIONAL LAND BANK CORPORATION**  
**DISPOSITION OF REAL AND PERSONAL PROPERTY POLICY**

**SECTION 1. PURPOSE.**

This policy (the "Policy") sets forth guidelines for the Finger Lakes Regional Land Bank Corporation's (Land Bank) disposal of real and personal property in accordance with the mission and purpose of the Land Bank and all applicable law.

**SECTION 2. DEFINITIONS.**

- a. "**Land Bank**" shall mean Finger Lakes 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 in accordance with Article 16 of the New York State Not-For Profit Corporation Law.
- 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 of another party.

**SECTION 3. GENERAL DUTIES.**

- a. The Land Bank shall:
  - maintain adequate inventory controls and accountability systems for all property owned by the Land Bank and under its control;
  - periodically inventory such property to determine which property may be disposed of;
  - produce a written report of such in accordance with Section 3(b); and
  - transfer or dispose of such property as promptly as possible in accordance with this Policy.
- b. The Land Bank shall:
  - i. publish, not less frequently than annually, a report listing all real property owned by the Land Bank. Such report shall consist of a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Land Bank and the name of the purchaser for all such property sold by the Land Bank during such period; and
  - ii. deliver copies of such report to all agencies required by law including the Comptroller of the State of New York, the Director of the Budget of 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).

- iii. 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 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 property dispositions shall be listed on the property disposition inventory established pursuant to this subsection (iii) of this Section 3(b) within one week of disposition. Such records shall remain available for public inspection in the property disposition inventory indefinitely.

#### **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. **Method of Disposition.** Unless otherwise permitted, the Land Bank shall dispose of property for not less than its fair market value 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. The Contracting Officer 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 section. Provided, however, except in compliance with all applicable law, no disposition of real property, or any interest in real property shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction, and, provided further, that no disposition of any other property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar property shall be made without a similar appraisal. Every deed executed by the Contracting Officer shall contain a covenant which shall run with the land that the Transferee, his heirs and assigns consent to the jurisdiction of the New York State Supreme Court in any action to enforce payment of real property taxes assessed against the property pursuant to the New York State Real Property Tax Law.
- 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 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. **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 a proposal or 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 Seneca County, New York, or the Applicant has agreed to engage a property manager located in Seneca County, New York 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 disqualified pursuant to subsection (ii) of Section 5(a); and
5. The Applicant has completed an application pursuant to Section 5(b).

ii. An Applicant is disqualified if:

1. A property owned by the applicant has been foreclosed upon for tax-delinquency by Seneca County;
2. At the time of the Applicant's application, the Applicant owes Seneca County amounts for past due bills, fines, or fees;
3. There are open code violations or a history of code violations with respect to real property owned by the Applicant;
4. Multiple nuisance abatement cases or proceedings have been commenced with respect to real property owned by the Applicant; or
5. 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 Seneca County for

tax delinquency.

- 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 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 good faith deposit and 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, secured financial obligations, covenants and conditions related to the present and future use of any property being disposed of pursuant to this Policy, contractual commitments of the buyer or lessee, and such other forms of consideration deemed appropriate by the Board of Directors.
- 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, private development activities which further the Land Bank's mission and purpose:
  - i. **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. Such promise to occupy as a Principal Residence shall be secured by a second mortgage on the property in the amount of \$5,000 which will provide that amount shall be repayable in full should the Applicant or subsequent buyer move or sell the property within 5 years of taking ownership.
  - ii. **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.
  - 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. **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 buyer's property, beautifying the surrounding neighborhood, and improving surrounding property values.
- v. **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; and provide the Land Bank with copies of all insurance policies and must name the Land Bank as an additional insured on said policies.
- vi. **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.
- vii. **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 the 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.
- 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.