COMMUNITY DEVELOPMENT COMMISSION
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ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

1-D August 16, 2016

LORI GLASGOW
EXECUTIVE OFFICER

August 16, 2016

The Honorable Board of Commissioners
Community Development Commission
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

The Honorable Board of Commissioners
Housing Authority of the
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Commissioners:

POLICY FOR DISPOSITION OF REAL PROPERTY
(ALL DISTRICTS) (3 VOTE)

SUBJECT

This Board Letter recommends adoption of a Policy for Disposition of Real Property owned by the Community Development Commission of the County of Los Angeles (Commission) and the Housing Authority of the County of Los Angeles (Housing Authority).

IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT COMMISSION:

1. Adopt a Policy for Disposition of Real Property (Policy).

2. Authorize the Executive Director of the Commission, or his designee, to dispose of real properties pursuant to the Policy when the fair market value of the property is under $500,000.

3. Authorize the Executive Director of the Commission, or his designee, to execute deeds, rights of entry, and other required documents to effectuate property disposition pursuant to the Policy when the fair market value of the property is under $500,000.

4. Find that this action is not subject to the provisions of the California Environmental Quality Act (CEQA), as described herein, because the activity will not have the potential for causing a significant effect on the environment.

IT IS RECOMMENDED THAT THE BOARD ACTING AS THE GOVERNING BODY OF THE HOUSING AUTHORITY:

1. Adopt a Policy for Disposition of Real Property (Policy).

2. Authorize the Executive Director of the Housing Authority, or his designee, to dispose of real properties pursuant to the Policy when the fair market value of the property is under $500,000.

3. Authorize the Executive Director of the Housing Authority, or his designee, to execute deeds, rights of entry, and other required documents to effectuate property disposition pursuant to the Policy when the fair market value of the property is under $500,000.

4. Find that this action is not subject to the California Environmental Quality Act (CEQA) because it is not defined as a project under CEQA and does not have the potential for causing a significant effect on the environment.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

During the course of implementing housing and community development projects, the Commission and Housing Authority have acquired real properties, which may no longer be needed for either the Commission or Housing Authority or public use within the foreseeable future. The purpose of this Policy is to: 1) establish procedures by which the Commission's and Housing Authority's real property portfolio is reviewed to determine the property needs for potential public use and for designating surplus parcels for sale, lease, exchange, transfer or donation; and 2) provide a methodology for the sale or exchange of real estate owned by the respective agency.

FISCAL IMPACT/FINANCING

There is no impact on the County General Fund.

Disposition of each designated surplus property will be evaluated on a case-by-case basis to assess any fiscal impacts.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Commission and Housing Authority have acquired a number of real properties that may no longer be suitable for the respective agency's purposes. The attached Policy provides a set of procedures for disposing of such properties. Properties that are no longer needed for public facilities, affordable housing, public housing, or economic development and whose disposition will provide a greater public benefit shall be reported as "surplus". Establishment of the Policy for disposition of surplus real property will help the Commission and Housing Authority expedite this process.

The Policy provides for the disposition of real properties that have been determined to be surplus by the Commission or Housing Authority, by any of the following means:

- Directly to a governmental agency as a result of notification pursuant to Section 54222 et seq.
- Directly to an adjacent property owner pursuant to the Policy.
- Directly to the party who submits the highest bid pursuant to a competitive sealed bid or sale at a public auction.

As an alternative to the sealed bid procedures, the Policy provides that the Executive Director of the Commission and Housing Authority may choose to utilize qualified consultants under contract to conduct the final disposition of properties. In addition, the Policy allows the Commission and Housing Authority to work with the County of Los Angeles' Chief Executive Office (CEO) to conduct property sales to the public pursuant to the existing Master Services Agreement between the Commission, Housing Authority, and the County.

The Policy delegates authority to approve the disposition of real property if the fair market value of the property is less than $500,000 to the Executive Director or his or her designee. Disposition of properties valued at $500,000 or higher will require the approval of the Board of Commissioners. The Policy permits the Executive Director to delegate his authority to conduct real property sales to qualified contracted consultants or the CEO Real Estate Division.

The sale price of any surplus real property will be based on the appraised fair market value. Sales for less than fair market value may be accepted if an extraordinary need or circumstance is recognized by the Executive Director of the respective agency, and, is consistent with the requirements governing the funds used to originally purchase the property.

The Policy recognizes that certain funding sources may impose additional restrictions and requirements on real property disposition. Proceeds from sales of surplus properties will be allocated in accordance with the requirements of the funding source or sources that were initially used to purchase the properties.

This Policy may be amended by the Executive Director, after providing written notice to the Board, to conform to changes in Federal, State, or County laws or regulations as required.

ENVIRONMENTAL DOCUMENTATION

The proposed action is exempt from the provisions of the National Environmental Policy Act (NEPA) pursuant to 24 Code of Federal Regulations, Part 58, Section 58.34 (a)(3) because it involves administrative activities that will not have a physical impact on or result in any physical changes to the environment. These activities are not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines 15060(c)(3) and 15378 because they are not defined as a project under CEQA and do not have the potential for causing a significant effect on the environment.

Prior to moving forward with disposition of specific properties, an Environmental Service Request will be submitted to the Community Development Commission’s Environmental Services Unit for review. Each project will receive an environmental clearance in accordance with CEQA Guidelines and NEPA regulations before proceeding with property disposition.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Adoption of the Policy will allow the Commission and Housing Authority to dispose of properties

deemed surplus so they may be made available for public or private use, and will reduce expenses related to maintaining and securing surplus properties.

Respectfully submitted,

SEAN ROGAN
Executive Director

SR:CC:dr

Enclosures

THE COMMUNITY DEVELOPMENT COMMISSION AND THE HOUSING AUTHORITY

SUBJECT: DISPOSITION OF REAL PROPERTY POLICY

EFFECTIVE DATE:

PURPOSE

The purpose of this policy is to: 1) establish procedures by which the Community Development Commission's and Housing Authority's (collectively the "Public Agencies" or individually "Public Agency") real property portfolio is reviewed to determine the property needs for potential public use and for designating surplus parcels for sale, lease, exchange, transfer or donation; and 2) provide a methodology for the sale or exchange of real estate owned by the Public Agencies.

POLICY

The Public Agencies will review their real estate portfolios to determine the appropriate use of their properties and determine those for Public Agency purposes. Those properties not needed for either the Public Agencies' or public use within the foreseeable future, may be made available for sale, lease, exchange, transfer or donation.

The Public Agencies shall seek fair market value for their properties. The Public Agencies shall optimize the sales price or lease revenue from their real estate based on relevant factors including the following: 1) an appraisal reflecting current market value when either a transaction or authorization to sell or lease is presented to the respective Board of Commissioners; 2) prevailing economic conditions and market trends; and 3) any special benefits to accrue from the sale or lease of property assets. Discounts will not be negotiated unless a need or circumstance is recognized by the Executive Director, or his/her designee setting forth the amount of the discount and the justification for the discount.

Each Division within the Public Agency with real estate holdings shall prepare and present to its Director a comprehensive Portfolio Management Plan on an annual basis, with periodic reviews and as-needed updates. The Portfolio Management Plan shall include an overall review of each Division's real estate inventory, a disposition plan for Surplus Property, and the following major elements:

- Property evaluation and characterization of real estate assets;
- A strategy for properties scheduled for development, including project description, schedule, budget, agreement type and term, and other pertinent project information;
- Disposition Plan for surplus assets; and
- Investment Portfolio Plan for leases.

PROCEDURES

1.0 Property Inventory

As part of the overall Portfolio Management Plan, each Division with real estate holdings shall establish and maintain an inventory and map of its property assets. The inventory will include the following information:

- Project name (if available);
- Street address;
- Assessor's Parcel Number, also known as Assessor's Identification Number;
- Map of the property;
- Proposed use of property;
- Listing of covenants, conditions, restrictions, or other limiting attributes;
- Identification of fund(s), fund number(s), and cost of acquisition;
- Other pertinent property information (e.g., zoning, lot size, existing improvements, etc.);
- Restrictions on property use relative to lease or sale (if applicable); and
- Maintenance, security, or other carrying costs and source(s) of payment.

2.0 Disposition of Non-Surplus Property

At the Executive Director's discretion, after consultation with the Supervisorial District in which the property lies, a Public Agency may initiate a competitive process for development of vacant property to serve the goals of the County of Los Angeles, the Public Agency, or the funding source(s) that were used to purchase the property. A developer selected in this manner will be invited to enter into a period of exclusive negotiation with the Public Agency, subject to approval of the Executive Director, or his/her designee. During this negotiation period, the Executive Director may recommend that the appropriate Board of Commissioners consider entering into an agreement, such as a Disposition and Development Agreement or Development Agreement, with the developer. The agreement executed with the developer shall set forth all terms of the sale of the property and contractual obligations of the selected developer and the Public Agency. In all cases, final disposition of any property utilizing this process is subject to the respective Public Agency's Board of Commissioners' approval.

3.0 Disposition of Surplus Property

3.1 **Identification and Definition of Potentially Surplus Properties**
Each Division with property holdings is required to conduct an annual survey of its property holdings. Properties that are no longer needed for public facilities, affordable housing, public housing, or economic

development and whose disposition will provide a greater public benefit shall be reported as “surplus.”

3.2 **Annual Review of Property Holdings**

Public Agency Staff shall annually review all of the Public Agencies’ current property holdings and will recommend the sale or transfer of surplus properties to Executive Management, which include, but are not limited to, the following:

- The property is not currently used by the Public Agency or no longer supports the Public Agency’s mission or function.
- The property could not be used for a Public Agency or County purpose within its original purchasing fund responsibility.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.
- There is evidence of potential interest by other governmental agencies located in the County in purchasing or having the property transferred for a public use or benefit.

Factors to be considered in determining whether a property should be sold include:

- The original funding source for the acquisition of the property will be determined during the review to determine what additional terms and conditions must be considered in the sale of such property.
- Whether the Public Agency will be relieved of potential liabilities and/or costs of maintaining properties that do not generate income or provide public benefit.
- Stimulation of the economy by providing opportunities for private sector investment.
- The sale of the property will generate greater economic value than a ground lease, if a ground lease is a feasible option.

3.3 **Surplus Property Declaration**

Public Agency-owned property may be declared surplus by the Executive Director or his/her designee after the following procedures have been completed.

3.3.1 <u>Determination of Surplus</u>

Following the Executive Director’s review of the staff recommendation, the Executive Director shall determine whether the property shall be declared surplus (Surplus Property). If such a determination is made, the Executive Director shall determine whether the property should be sold by auction, or through negotiated sale, including listing with a real estate broker under contract with the Public Agencies or the County.

3.4 Sale Procedures for Surplus Property

3.4.1 Verification of Ownership

The Division declaring the Surplus Property shall order a Preliminary Title Report (PTR) for each of the properties that are included on the approved list of Surplus Properties to verify the Public Agency's ownership and to ascertain the condition of title. Upon request, the Division shall subsequently make the PTR available to government agencies or potential buyers as evidence of ownership of the property.

3.4.2 Requirements of Funding Sources

In selling properties, the Public Agencies shall comply with all requirements of state, federal, or local government funding sources that may have been used to purchase the properties. These may include, but are not limited to: uses of properties, sale prices for properties, allocation of sales proceeds, sales procedures, public notices or meetings; or approvals by agencies, boards, commissions, or legislative bodies.

3.4.3 Establishment of Fair Market Value

After a property has been declared surplus and prior to its sale or transfer, the Division shall obtain an appraisal of the property considered for disposition to determine the fair market value. The appraisal will be prepared by a contracted fee appraiser. Whether Surplus Property is to be disposed of by auction, or negotiated sale, interested parties shall be advised that the minimum acceptable price shall be the value determined by a current (less than six months old) appraisal. At the Executive Director, or his/her designee's discretion, a property may be offered for sale at a price above the estimated fair market value.

3.4.4 Property Condition and Environmental Due Diligence

The buyer of any Surplus Property shall be responsible for conducting its own due diligence to determine the environmental condition of the property. The Public Agency shall make available for viewing any environmental reports it has on the property. All Surplus Property shall be sold "As Is, Where Is."

3.4.5 Government Code Section 54222 Clearance Process

Government Code Section 54222 requires a local agency proposing to dispose of Surplus Property to first notify governmental agencies and housing sponsors (as defined by Health and Safety Code Section 50074 and which have requested notice) operating within the County as to the availability of Surplus Property. The governmental

agencies and housing sponsors are given the right of first refusal before the property is offered for sale to the general public, unless the property is determined to be exempt from this process pursuant to Government Code Section 54221. The governmental agencies and housing sponsors are given 60 days to respond with an intent to acquire. If there is no interest expressed by such governmental agencies or housing sponsors, then property may be deemed cleared for public sale.

3.4.6 Marketing of Surplus Property

Properties offered for sale shall receive the widest possible exposure to the open market place. In addition to the notification procedures listed below, the Public Agency may be accomplished through direct marketing techniques, such as, advertising, exposure through real estate media, posting the property on the Multiple Listing Service, or any other appropriate method. The following notification procedures shall be followed:

3.4.6.1 On-Site Notice

A notice of the Public Agency's intent to dispose of the subject property shall be conspicuously posted on the property no less than two (2) weeks prior to the date set to commence bids or the date set for the auction. The property shall be posted with a "for sale" sign with the appropriate Public Agency contact name and telephone number listed.

3.4.6.2 Website Notice

A notice shall be published on the Public Agency's website for two (2) consecutive weeks preceding the public auction. All notices shall include a description of the property, the procedure by which the subject property is to be disposed of, and the minimum price that will be accepted.

3.4.6.3 Adjacent Property Owners

Each adjacent property owner will be provided notice of the availability of the Surplus Property and requested to provide notice of their interest in acquiring the Surplus Property within thirty (30) days from the date of the notice letter from Public Agency. If more than one adjacent property owner is interested in acquiring the property, priority shall be given to the adjacent property owner who offers to acquire the property for fair market value as established by the Public Agency, or a higher price within the 30-day period.

4.0 Methods of Sale

Properties may be sold by the following processes:

4.1 Disposition by Auction

Where property is sold at auction, the prevailing bidder must deposit a certified check or money order in an amount equal to ten percent (10%) of the bid amount into escrow as earnest money to the Public Agency. Payment of the remaining amount of the purchase price shall be made within thirty (30) days. In the event the purchaser is unable to pay the remaining amount within the required time, the earnest money deposit shall become non-refundable and may be retained by the Public Agency as liquidated damages.

4.2 Disposition by Negotiated Sale

Properties may be sold as a negotiated sale as a result of a competitive selection process and resulting development agreement, to adjacent property owners, to non-profits for housing development, to other government agencies, in situations where no acceptable bids are received, or if there are contingencies requiring a price adjustment. Where property is sold by negotiated sale, the purchaser shall deposit earnest money into escrow in an amount to ten percent (10%) of the purchase price within three (3) business days of execution of a Purchase and Sale Agreement for the purchase of the subject property. Payment of the remaining balance of the purchase price shall be made within thirty (30) days, unless otherwise specified in the Purchase and Sale Agreement. In the event the purchaser is unable to pay the remaining amount within the required time, the earnest money deposit shall become non-refundable and may be retained by the Public Agency as liquidated damages.

4.3 Delegation of Sales Authority

As an alternative to the “Method of Sale” Processes stated in the section above, the Public Agency may, at the Executive Director’s discretion, use one of the following methods to complete final disposition of Surplus Property:

4.3.1 Use of Real Estate Brokers

Real estate brokers under contract with a Public Agency may be used to represent the Public Agency in the sale of its properties.

4.3.2 Delegation to County CEO

The Executive Director may, subject to the approval of the County Chief Executive Office (CEO), delegate authority for property sales to the public to the CEO, pursuant to the

Master Services Agreement between the County and the respective Public Agency.

5.0 Approval

5.1 Properties Valued under $500,000
The Executive Director may initiate and approve the sale of property if the estimated fair market value is under $500,000.

5.2 Properties Valued at $500,000 or higher
The respective Public Agency's Board of Commissioners must approve the disposition for any Surplus Property when the estimated fair market value is $500,000 or higher.

5.3 General Authority
The Executive Director of the Commission, or his designee, is authorized to execute deeds, rights of entry, and other required documents to effectuate property disposition pursuant to this Policy.

6.0 Closing Transaction

The property sales transaction shall be consummated in the standard adopted procedures in place for the closing of real estate transactions. Upon receipt of the proceeds of the sale, notice shall be sent to the appropriate Public Agency's Divisions notifying them that funds have been deposited with the Public Agency with instructions on where to credit the proceeds from the sale of the property.

6.1 Closing Costs
All closing costs shall be borne 50% by the purchaser and 50% by the seller including, but not limited to, title insurance, recordation costs, and escrow fees. Any brokerage costs will be borne by the seller.

6.2 Form of Conveyance
All forms of conveyance shall be in a manner approved by County Counsel.

6.3 Transaction Processing Fees
The Public Agency may charge a transaction processing fee. The fee may be waived for transactions that provide benefit to the Public Agency.

7.0 Amendments to this Policy

The Executive Director, after providing written notice to the Board, may amend this policy to conform to changes in federal, state, or County laws or regulations as required.