

October 4, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Property Disposition Amended Policies and Procedures for the
Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property.

Purpose/Outcomes	Property Disposition will have the delegated authority for the management and administration of tax foreclosed properties including the sale and/or transfer of these properties.
Dollar Amount and Fiscal Impact	Net proceeds from property sales and transfers in excess of the actual expenses, including management, administration and reserves incurred by Property Disposition to annually operate the program, are distributed by the County Treasurer to all taxing entities within Clackamas County. Actual distribution and dollar amounts will vary year to year.
Funding Source	No General Fund resources are currently allocated to this program.
Duration	Management and disbursement of tax foreclosed and surplus properties are ongoing.
Previous Board Action	A Policy Session with the Board of County Commissioners was held on September 25, 2018 to discuss the amended policies and procedures. The Board approved the policy and procedures.
Strategic Plan Alignment	1. Management of Tax Foreclosed properties. 2. Build public trust through good government.
Contact Person	Rick Gruen, Property Disposition Manager, 503.742.4345

BACKGROUND: Clackamas County's Department of Assessment and Taxation annually forecloses on tax-delinquent properties. The foreclosure process is a six year process – taxes must be delinquent for three years, then a two year judgment is filed and in the sixth year foreclosure occurs and the property is deeded to the County in lieu of uncollected taxes. Following the recording of the deed in the County's name, the management and disposition is then transferred to the Property Disposition Division of the Department of Business & Community Services (BCS).

BCS Property Disposition Division is tasked with managing, administering and dispersing of tax foreclosed real property assets in a cost effective manner that will provide a County public benefit. No General Fund resources are allocated to this program. Oregon Revised Statutes provides for Property Disposition Division to recover annual operational expenses. The County is liable and responsible for any preexisting or unknown hazards occurring on the property and must budget reserves for these types of unknown expenses. No General Fund resources are currently allocated to this program.

Net proceeds from property sales and transfers in excess of the actual expenses, including management, administration and reserves incurred by BCS Property Disposition to annually operate the program, are distributed by the County Treasurer to all taxing entities within Clackamas County. Actual distribution and dollar amounts will vary year to year.

County Counsel has reviewed and approved the amended policies and procedures consistent with Oregon Revised Statutes.

RECOMMENDATION: Staff respectfully recommends Board approval of the proposed BCS Property Disposition policies and procedures for the sale, transfer and administration of tax foreclosed and surplus county properties.

Respectfully submitted,

A handwritten signature in cursive script that reads "Laura Zentner". The signature is written in black ink and is positioned above the typed name.

Laura Zentner, Director
Business & Community Services

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Resolution
Adopting Revised Disposition
Policies and Procedures



Resolution No. _____

WHEREAS, the Property Disposition Division of the Business and Community Services Department of Clackamas County has policies and procedures related to the sale or transfer of certain property; and

WHEREAS, on September 25, 2018 the Board of County Commissioners met to discuss proposed changes to the Policies and Procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property; and

Now, therefore, it is hereby ordered:

1. That the Clackamas County Board of County Commissioners hereby adopts the Policies and Procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property as shown on Attachments A and B to this board order.

DATED this 4th day of October, 2018

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary



Business & Community Services Department

TITLE: PROPERTY DISPOSITION POLICIES

Attachment A

Originally Adopted: March 11, 2014

Last Updated: September 12, 2018

PURPOSE:

Establish Policies for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property.

POLICY STATEMENT:

Real property acquired by Clackamas County (the County) in any manner which is not needed for County use shall be declared surplus, except as otherwise provided for by Oregon law.

The Property Disposition Manager and BCS Director/Deputy Director will annually review and recommend to the Board of County Commissioners those real properties to be declared surplus and considered for transfer or sale. Surplus real properties shall be sold or transferred according to the procedures adopted by the County, which follow Oregon law where applicable.

The Board of County Commissioners will authorize by Board Order the list of surplus properties to be transferred or sold through the auction process. The Board of County Commissioners delegates its authority to the Business and Community Services Director and Deputy Director to develop and implement the procedures necessary and by which surplus property is transferred or sold in accordance with ORS 275 and other applicable Oregon laws.

The costs incurred by the County in the maintenance, management and administration of properties acquired by the County will be determined annually by the BCS Director. As Property Disposition is not general fund supported, the BCS Director shall ensure at all times that the necessary operational and capital reserve requirements are maintained prior to releasing excess funds as follows:

- Four (4) years of operating expenses are held in reserve and calculated annually
- Capital requirements in the amount of \$100,000.00 shall be held in reserve
- Property Cleanup and Unknown Liabilities Reserve Funds shall be held in the amount of \$500,000.00 for those assets that do not qualify as a Brownfield (i.e. site mitigation, building teardowns, legal, etc.)

RELATED RULE:

The Board of County Commissioners further delegates under Board Order 2015-27 its authority to authorize final sales to the Director or Deputy Director of the Business and Community Services Department and Clackamas County Administration





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

Attachment B

Originally Adopted: March 11, 2014

Last Updated: September 12, 2018

PURPOSE:

Establish procedures for the Sale, Transfer and Administration of Tax Foreclosed and Surplus County Property consistent with adopted Policy.

The Director of Business and Community Services has directed the Property Disposition Division to manage tax foreclosed properties to secure the Highest Permanent Value benefitting the citizens of Clackamas County. Highest Permanent Value is defined as managing, administering and dispersing of tax foreclosed and surplus real property assets in a timely and cost effective manner that can provide a full range of social, economic and environmental benefits for the citizens of Clackamas County.

PROCEDURES:

A. General

1. Property Disposition Division shall annually:
 - a. Review its real property inventory of assets and identify tax foreclosed properties to consider for sale or transfer.
 - b. Review its budget and reserve requirements to determine available net real property revenue for distribution to the taxing districts within Clackamas County.
2. The sale or transfer of tax foreclosed properties shall be made by the Property Resources Division in accordance with ORS275.000 to ORS 275.340 and ORS 271.300 to 271.360 and the following Highest Permanent Value criteria:
 - a. Transfer of property to taxing districts and other eligible entities – to meet local resource and public benefit needs (i.e. parks, open space, Brownfield sites)
 - b. Return property to tax rolls
 - c. Board of County Commissioners, or those with delegated authority, shall have final approval of those properties considered for transfer or sale.
 - d. At the discretion of the County, and with extenuating circumstances, the record owner or contract purchaser may be given the opportunity to repurchase the property pursuant to ORS 275.180. Said repurchase shall be in the amount of the total back taxes, interest, penalties and County administrative fee. Such repurchase or agreement to repurchase must occur within six (6) months following the expiration of the statutory redemption period commencing with the filing of the foreclosure deed.





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

B. Transfer Objective

Property Disposition Management Team will consider the tax foreclosed property assets to be declared as surplus and develop a list of available properties which will be distributed to County Departments, local Municipalities, County agencies and Special Districts.

1. Should any of the eligible entities above request a transfer of a property, transfers will be based on the following conditions:
 - a. Subject to final approval of the Board of County Commissioners.
 - b. Property will be used for a perpetual public use benefit (i.e. park, open space, greenway, trail, easement, Brownfield sites, etc.) consistent with an adopted strategic plan, master plan or other long term management plan of the requesting entity.
 - c. Property shall be conveyed for the Transfer Value as calculated on the back taxes, interest, penalties owed, plus associated costs (title report, deed recording, etc.) and Property Disposition administrative fee as determined under Section E. In certain cases, the set value of the property will be based on an appraised value (i.e. public benefit value) in consideration of its limited use under ORS 271.310 to 271.330.
 - d. Brownfield sites transferred to Land Bank Authority subject to ORS 271.310 and 271.335 and:
 - i. Transfer Value is paid in the amount of back taxes, penalties, interest, and administration fee in compliance with ORS 275.275 and as determined in Section E below.
2. Properties in excess of \$15,000 (Assessor's Estimate of Real Market Value – ARMV) are assigned to public auction; properties with an ARMV of less than \$15,000 will be considered for private marketing or assigned to public auction under ORS 275.225 (a)

C. Tax Roll Objective

Board of County Commissioners will declare tax foreclosed property assets as surplus and the Property Disposition Management Team will put them up for public auction. Public Oral Auction considerations include:

1. Value will be based on the Assessor's estimate of Real Market Value (ARMV) and/or Independent Appraised Value (IAV) at the discretion of Property Resources Division.
2. Minimum bid amounts will generally be set, but not limited to, the following criteria:
 - a. 25% of ARMV:
 - i. Property is not buildable
 - ii. Property is constrained by one or more of the following:
 - Identified wetlands or riparian overlays
 - Identified septic limitations
 - iii. Review of adjacent parcels show no existing improvements
 - iv. No public access or deeded easement for access
 - b. 50% of ARMV:
 - i. Property may be buildable





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

- ii. Property is constrained by one or more of the following:
 - Identified wetlands or riparian overlays
 - Identified septic limitations
 - iii. Review of adjacent parcels show no, or minimal existing improvements
 - iv. Limited public access or deeded easement.
- c. 75% of ARMV:
- i. Property is buildable or has existing improvements
 - ii. Review of adjacent parcels show existing improvements
 - iii. Public access or deeded easements are identified
- d. 100% of Appraised Value
- i. Property is of high value and has considerable interest
 - ii. Independent Third Party Verification will be obtained. The Property Resources Manager will obtain an Opinion of Value/Salability or Appraisal from qualified professionals on high value or significant parcels, in order to validate setting minimum bid price.
 - iii. Third party verification may be considered for all properties at the Property Resources Manager's discretion.

D. Properties not selling at the Oral Public Auction

The Property Disposition Management Team will review and consider the tax foreclosed property assets and consider the following options:

1. Property may be placed with a private real estate broker (market value)
2. Property may be considered for transfer to a qualifying special district or non-profit organization per ORS 271.330
 - a. Properties being transferred will be conveyed for a minimum of back taxes, interest, penalties owed, plus associated costs (title report, deed recording) and a Property Disposition administrative fee as set by Property Resources Manager.
 - b. A property list may be made available and distributed to qualifying nonprofit organizations.
3. Property may be removed from the current surplus inventory list at any time by the Property Disposition Management Team and/or Board of County Commissioners.

E. Property Disposition Division - Cost Recovery and Administrative Fee Schedule

Oregon Revised Statutes (ORS275.275) provides for Property Disposition Division to recover annual operational expenses. With consideration that the Property Disposition Division is not general fund supported, the Property Disposition Division shall be entitled to recover the direct and indirect costs associated with managing, selling, and transferring tax foreclosed and surplus real properties.





Business & Community Services Department

TITLE: PROPERTY DISPOSITION PROCEDURES

1. Direct costs include such services related to property inspections, title and property history searches, document and legal review, document preparation, accounting, sale/transfer preparation, deed recording, property liability mitigation, and other property management services as needed. The property account will be charged for the direct costs for title reports, property appraisals, deed recording and for those direct property management services performed at the established billable rates set by the Business and Community Services Department.
2. Indirect costs will be assessed to the sale or transfer of properties for administration of Property Disposition allocated cost services (reporting, accounting, legal, liability, etc.) using the following fee schedule (based on property sale or transfer value):
 - a. \$1 to \$15,000 – 15% (minimum \$150.00)
 - b. \$15,001 to \$50,000 – 12%
 - c. \$50,001 to \$100,000 – 10%
 - d. \$100,001 to \$500,000 – 8%
 - e. \$500,001 to \$1,000,000 – 5%
 - f. > \$1,000,000 – 3%
3. Former Record Owner or Contract Purchaser Repurchase fee – no less than 2% of property assessed value plus back taxes, interest, and penalties.

RELATED RULE:

The Board of County Commissioners further delegates under Board Order 2015-27 its authority to authorize final sales to the Director or Deputy Director of the Business and Community Services Department and Clackamas County Administration.

