

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: September 25, 2018 Time: 11:00 AM Length: 30 min.
Presentation Title: Property Disposition Amended Policies and Procedures
Department: Business & Community Services - Property Disposition Division
Presenters: Rick Gruen, Property Disposition Manager; Lindsey Wilde, Property Agent Specialist
Other Invitees: Laura Zentner, Director, Business and Community Services; Kathleen Rastetter, County Counsel; Nate Boderman, County Counsel

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Approval of amended Business & Community Services - Property Disposition Policies and Procedures for the sale, transfer, and administration of tax foreclosed properties within Clackamas County.

EXECUTIVE SUMMARY:

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. The property is then deeded to the County in lieu of uncollected taxes. Following the recording of the deed in the County's name, the management and disposition of the property is transferred to Business & Community Services (BCS) - Property Disposition Division. The Board of County Commissioners delegates its authority to the BCS 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 goal of the Property Disposition Division is 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 property in a timely and cost effective manner that can provide a full range of social, economic and environmental benefits for the people of Clackamas County through the disbursement of such properties to other County departments and agencies, local governments and/or special districts for a public benefit or returning these properties to the tax rolls vial public auction or other sale means.

The Board of County Commissioners last adopted Property Disposition policies and procedures at its June 9, 2014 Business Meeting.

Revisions to Property Disposition policies and procedures are being made to:

1. Update applicable Oregon Revised Statutes.
2. Provide that adequate reserves are maintained for operations, capital requirements and future unknown liabilities as BCS - Property Disposition Division is not general fund supported.
3. Ensure the appropriate policies and procedures are in place so that net proceeds from surplus property sales and transfers in excess of the actual expenses, including management and administration incurred by BCS - Property Disposition for annually operating the program, can be 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 as to form and content.

FINANCIAL IMPLICATIONS:

Is this item in your current budget? YES NO

What is the cost? N/A What is the funding source? Proceeds from the sale and transfer of surplus property.

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals?
Assets managed by BCS - Property Disposition are repurposed for public benefit or returned to the tax rolls.
- How does this item align with the County’s Performance Clackamas goals?
Build public trust through good government.

LEGAL/POLICY REQUIREMENTS:

Oregon Revised Statute prescribes the process of transferring or selling tax foreclosed properties. County policies and procedures provide the necessary means for the Director/Deputy Director to manage and administer the operational requirements of the property tax foreclosure program consistent with all applicable Oregon laws.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Property Disposition staff prepares and circulates a copy of the *Proposed Surplus Tax Foreclosed Property List* to all County Departments, local municipalities and special districts in Clackamas County for their review and consideration. ORS 271.330 permits other governmental agencies to request a direct transfer of a property when the property has a perpetual public use and fits within an adopted strategic or regional plan. Additionally, the public is notified of Public Auctions through newspaper advertisements, county website and flyers. Direct mailing is made to adjacent property owners within 200 feet of a tax foreclosed property being placed in the Public Auction.

OPTIONS:

BCS - Property Disposition is requesting that the BCC review the revisions to Property Disposition policies and procedures. Options include:

1. Approve the revisions of the policies and procedures as presented.
2. Modify the policies and procedures revisions

RECOMMENDATIONS

Staff recommends the BCC accept Option 1 to amend the Property Disposition policies and procedures as presented.

- a. No issues are anticipated with the recommendation of approval.
- b. Not approving the amended policies and procedures would create operational inefficiencies in managing and administrating the tax foreclosed properties; may also require County general funds be used to operate the property tax foreclosure program .

ATTACHMENTS:

- Attachment A – Amended policies
- Attachment B – Amended procedures

SUBMITTED BY:

Division Director/Head Approval _____
 Department Director/Head Approval Law Jentner
 County Administrator Approval _____

For information on this issue or copies of attachments, please contact Rick Gruen, Manager, BCS - Property Disposition @ x4345



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 ORS 275.000 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.





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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



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- 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.



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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. > \$1,000,001 – 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.