



# KINGSTON CITY LAND BANK

## DISPOSITION OF REAL & PERSONAL PROPERTY POLICY

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### Guiding Principles

We believe everyone has the right to a safe, affordable, and high-quality place to call home. Therefore, the mission of the Kingston City Land Bank (“KCLB”) is to foster an equitable community where vacant or distressed properties are transformed into community assets that improve the quality of life for Kingston residents, stabilize and enhance neighborhoods, and create new pathways for social and economic development.

The goals of this policy outlining the disposition of KCLB-owned properties are as follows (the “Goals”):

- Encourage the development and reuse of vacant properties consistent with the KCLB Strategic Plan, the City of Kingston’s Comprehensive Plan, the Open Space Plan, Kingston 2025, other City-adopted plans, and community input.
- Eliminate blight and revitalize neighborhoods.
- Strengthen and expand the City’s tax base.
- Support the production of affordable and workforce housing units.
- Support and preserve open space and urban agriculture.
- Support City goals by conveying some properties at a discount if the proposed use will provide significant community benefits.
- Convey land through an inclusionary, predictable, timely and transparent process.
- Encourage timely development and discourage real estate speculation.
- Bolster the Land Bank’s capacity to sustainably serve these Goals.

### SECTION 1. PURPOSE

This policy (the "Policy") sets forth guidelines for the Kingston City Land Bank's disposal of real and personal property in accordance with the mission and purpose of the Land Bank and applicable laws. This policy can be amended by resolution of the Board of Directors as new needs are identified, the efficacy of certain programs are evaluated, or any other reason consistent with the KCLB’s mission.

### SECTION 2. DEFINITIONS.

- "Land Bank" shall mean the Kingston City Land Bank (“KCLB”).



- "Contracting Officer" shall mean the person responsible for the Land Bank's compliance with, and enforcement of, this Policy. Such person shall be the Executive Director of the Land Bank.
- "Discount" shall mean an amount, as determined in the sole discretion of the Land Bank, reduced from the purchase price of a Property, which shall be secured by the Enforcement Debt or other enforcement mechanism.
- "Dispose" or "disposal" shall mean the transfer of title or any other beneficial interest in personal or real property.
- "Enforcement Debt" shall mean a secured mortgage and note executed by the Applicant for the benefit of the Land Bank and recorded as a lien on the Property. The amount, term and conditions of the Enforcement Debt shall be set forth in the sole discretion of the Land Bank (including but not limited to the Applicant maintaining the Property as his/her Principal Residence). The term of the Enforcement Debt shall be for at least fifteen (15) years and commencing on the sixth (6<sup>th</sup>) year, the principal amount of the Enforcement Debt shall be reduced by one-tenth (1/10<sup>th</sup>) on each annual anniversary thereafter with the entire principal balance forgiven upon maturity; provided the Applicant is not otherwise in default.
- "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.
- "Principal Residence" shall mean the Property that a person uses as his or her primary residence. If the Property is a multifamily dwelling, the Applicant shall use at least one of the units as their primary residence. If the person uses more than one Property as their residence, the Principal Residence is the Property in which the individual lives for the majority of the time during the year. The Applicant shall be required to annually certify to the Land Bank the use of the Property as his or her Principal Residence. The Applicant's failure to provide such annual certification or meet such requirements shall subject to the Applicant to fees, penalties and other enforcement measures at the sole discretion of the Land Bank.

### **SECTION 3. GENERAL DUTIES.**

- Upon acquisition, the Land Bank shall develop a maintenance plan to include, but not be limited to, insurance coverage, securing access to the Property, remediating any dangerous or potentially dangerous conditions, connecting utility services as needed, snow removal & landscaping as needed, as indicated on the Maintenance Plan Checklist.
- 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;



- transfer or dispose of such Property as promptly as possible in accordance with this Policy.
- Maintain and make available for public review and inspection a complete inventory of all Property owned by the Land Bank. Such inventory as to real property shall include: the location of the parcel; the purchase price, if any, for each parcel owned; the current assessed value of the real property for purposes of real property taxation; the amount, if any, owed to the locality for real property taxation; the identity of the transferor; and any conditions or restrictions applicable to the real property. All parcels received by the Land Bank shall be listed in such inventory within one week of acquisition and shall remain in such inventory for one week prior to disposition; and
- 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 the name of the purchaser, 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 real property dispositions shall be listed on the Property disposition inventory within fifteen business days of disposition.
- The Land Bank may develop guidelines for any redevelopment work undertaken by the Land Bank to inform responsible stewardship in the case of vacant land, and establish best practices in the case of stabilizing, renovating, or otherwise altering a structure. Such best practices shall include both historic and environmental considerations, to ensure that the Land Bank's work is of high quality, consistent with Kingston's historic legacy and need for preservation, and prioritizes high energy-efficiency standards to minimize long-term damage to the environment.

#### **SECTION 4. TRANSFER OR DISPOSITION OF PROPERTY.**

- **Supervision and Direction.** Except as otherwise provided herein, and as directed by the Land Bank Board of Directors, 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 purpose consistent with the Goals.
- **Custody and Control.** The custody and control of Land Bank Property, pending its disposition, shall be performed by the Contracting Officer.
- **Means of Disposition.** Unless otherwise permitted, the Land Bank shall dispose of Property by sale, exchange, or transfer, for cash, credit, purchase money mortgage, Enforcement Debt, restrictive covenants or condition, deed restrictions, reverter clauses, 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 Policy.



- **Validity of Deed, Bill of Sale, Lease, or Other Instrument.** A deed, bill of sale, license, 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 the 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.
- **Method of Disposition for Real Property.**
  - The method of disposition shall be a Negotiated Sale through one of the following mechanisms:
    - **Requests for Proposals.** A Request for Proposals (RFP) may be used for the disposition and redevelopment of certain properties identified by the Land Bank for one or more acceptable types of redevelopment proposals. Redevelopment goals will be derived from aforementioned City-adopted and KCLB strategic plans as well as input from the community in which the Property resides. The RFP process allows for a greater length of time for interested buyers to develop an offer and development plan, or to solicit development proposals that meet certain criteria set forth by the Land Bank. The Board of Directors will consider the purchase price offered, the planned use furthering the Land Bank's Goals as set forth herein, the scope of the redevelopment plan, the buyer's qualifications, references, capacity to complete the project, prior experience completing similar projects on time and budget, and evidence of the funds available for redevelopment, in addition to the content of the response to specific criteria or questions contained within the RFP, when selecting a winning proposal.
    - **Public Sale.** Open market competition may be used to establish the fair market value of Land Bank Property. Staff shall list Property for sale with a licensed real estate broker and/or on the Land Bank's website to solicit such competition. The Board of Directors may approve to sell Property to the person who has submitted the highest purchase offer provided such person otherwise meets the qualifications as set forth herein and agrees to other terms and conditions to be set forth in the listing as determined by the Land Bank.
    - **Private Sale.** The Board of Directors may authorize the sale of Property to a buyer without first undertaking the other methods of disposition set forth herein when it determines that a benefit to the community will be had by authorizing such sale without competitive procedures for reasons consistent with the Land Bank's mission and purpose and upon a demonstration that the buyer is uniquely qualified to own, develop or otherwise return the Property to productive use.



- **Listing Price.** Listing price shall be determined based on a comparative market analysis, consideration of the extent of renovations needed and, as needed, consultation with a licensed real estate broker or agent. The Contracting Officer, in collaboration with the Board of Directors, is empowered to negotiate a proposed purchase price (including less than fair market value or by donation to a charitable organization, the State of New York or any political subdivision thereof) with interested purchasers, taking into consideration all reasonable business and financial justifications for accepting offers above or below listing price.
- **Award of Purchase Contract.** The Contracting Officer shall present the Acquisition/Disposition Committee all applications and offers received for a particular Property. The committee will review for eligibility and submit qualifying applications to the Board of Directors, possibly with analysis and recommendations as to which offers are reasonable and consistent with the Land Bank's mission, purpose, and policies. The Board of Directors, in its sole discretion, may sell Property to an Applicant (as defined in Section 5 below) who has not submitted the highest purchase offer (i.e. sell for less than fair market value) for a variety of reasons consistent with the Land Bank's mission and purpose including, by way of example and not limitation, the submission of a redevelopment plan which provides for (i) a more comprehensive renovation of the Property, (ii) owner occupancy, (iii) a valuable community service, or (iv) other community benefit. The Board of Directors will also take into consideration the Applicant's qualifications and experience, financial capacity, the quality and extent of their redevelopment plan, and the planned use for the Property when selecting which Applicant a sales contract will be awarded. In addition, a number of defined programs are contained in this Policy which may result in a Property being sold subject to Enforcement Debt.
- **Method of Disposition for Personal Property.** The Land Bank may dispose of personal property by Public Sale, Request for Proposals or Private Sale under similar terms and conditions as set forth for the disposition of real property as well as by donation when the donee is a charitable organization, the State of New York or any political subdivision thereof. When determining the method of disposition, the Land Bank shall utilize the method which shall permit obtaining such competition as is feasible under the circumstances and which is consistent with the value and nature of the personal property proposed for disposition (including whether the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to impact



the value thereof), and which will be most advantageous to the Land Bank, price and other factors considered, and which shall further the interests of and be consistent with the mission and purpose of the Land Bank.

- **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 vote of a majority of the Board of Directors present at a meeting where a quorum has been established or by unanimous written consent.

## SECTION 5. BUYER QUALIFICATIONS

- **Buyer Qualifications.** All disposals of Land Bank Property shall be made to qualified buyers. A person submitting an application, bid or other offer to purchase Property owned by the Land Bank (an "Applicant") must meet the following requirements to be considered a "qualified buyer:"
  - The Applicant has completed an application in accordance with this Policy.
  - The Applicant meets all qualifications under which the property is being offered for sale.
  - Where appropriate, Applicant agrees to engage a property manager approved by the Land Bank located in Ulster County to manage the Property which is being disposed of pursuant to this policy.
  - If requested by the Land Bank, the Applicant completes a home-buyer education course.
  - The Applicant is not otherwise disqualified as set forth herein.
- **Disqualified Buyers.** An application is disqualified if:
  - Applicant owes the City of Kingston or Ulster County either past due taxes on any real property in Ulster County, or amounts for past due bills, fines, or fees, unless they are in a current payment agreement or agree in writing to remediate within a reasonable timeframe.
  - There are open code violations or a history of repeated code violations with respect to real property owned by the Applicant. A history of code violation(s) is not necessarily disqualifying, however such circumstances pertaining to that history will be considered with the application.
  - Multiple nuisance abatement cases or proceedings have been commenced with respect to real property owned by the Applicant.
  - 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 the City of Kingston or the County of Ulster for tax delinquency. However, an Applicant may still be deemed qualified by the Board of Directors if one or more of the following conditions are met:
    - If the Property in question is the applicant's principal residence or principal source of income.
    - The applicant presents compelling evidence excusing their failure to redeem the Property prior to its foreclosure for unpaid real property taxes,



and demonstrates that they have sufficient funds to pay in full the real property taxes that were due at the time of foreclosure, any other liens that were extinguished by the foreclosure (or the ability to reinstate such liens), and the Land Bank's expenses associated with the acquisition and maintenance of the Property.

- The applicant can reasonably commit in writing with a timeline and budget to making all repairs necessary to bring the Property into compliance with applicable health, building and zoning laws, and rules and regulations.
- The applicant demonstrates that they have sufficient income to remain tax-current once they regain title to the Property.

## **SECTION 6. APPLICATIONS; RENTALS; DISPOSITION PROGRAMS**

**Applications.** Land Bank 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. The information requested in such applications may vary depending on the type of Property that the Land Bank is intending to sell, including redevelopment plans and/or management plans, and a precise narrative description of future use of the Property. Applications shall be available in both Spanish and English.

- Should the Land Bank deem the Applicant qualified to purchase, the Land Bank may then offer an Applicant a purchase contract.
- Applications to purchase any property shall require a \$25.00 non-refundable application fee.
- 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 in a timely manner.

**Disposition Programs.** The Land Bank has adopted the following programs in order to support, through the sale of Land Bank Property, development activities which further the Land Bank's mission and purpose:

- **Rent To Own.** The Land Bank may retain ownership of real property for a limited time in order to provide qualified tenants the opportunity to secure ownership of the Property through a Rent to Own arrangement. Such arrangement will be a time-bound agreement, wherein a portion of the rent will be held in an escrow savings account and applied toward purchasing the Property at the end of the contract term. Rent to Own tenants may establish additional equity through the performance of necessary repairs or renovation work. Such "sweat equity" arrangement shall be agreed upon prior to commencement of the work and will compensate tenants for their time and any associated expenses of the project. Unless in the case of emergency repairs, any repair, renovation, or other





alteration work shall be undertaken by the tenant only with the Land Bank's explicit consent and direction.

- **Rentals.** The Land Bank may, on occasion, retain ownership (whether through a joint venture with another partner or solely by the Land Bank) of a piece of real property in order to provide rental units to eligible individuals. Rentals may be priced either to reflect market rates or below market rate to support the need for affordable housing.
- **Tenant to Homeowner 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.
- **Homeowner 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 for the duration of a set number of years. This program may be applied to any Property being disposed of pursuant to this Policy. If the Applicant or the Applicant's buyer fails to occupy the Property as his or her Principal Residence for the entire duration of the required amount of time, the Land Bank shall be entitled to a liquidated damage. The amount of the liquidated damage payable to the Land Bank shall decrease proportionately for each year Applicant or Applicant's buyer occupies the Property as his or her Principal Residence, reaching 0% once the required time has elapsed. The commitment to occupy the Property as a Principal Residence and the liquidated damage will be secured by a second mortgage on the Property.
- **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 price to property owners who own lots which are directly adjacent to such vacant lots. Owners of adjacent, well-maintained properties are the most likely purchasers to take care of these vacant lots in many instances, thereby enhancing the value of the purchaser's property, beautifying the surrounding neighborhood, and improving surrounding property values. The Land Bank may require purchasers to combine such lots with the purchaser's adjacent property to create one tax parcel as a condition of the sale.
- **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 to Applicants who plan to develop income-restricted affordable housing. In order to qualify, the development must be subject to restrictive covenants, Enforcement Debt or otherwise regulated by the Land Bank or an affordable housing governmental agency for a defined affordability period. Properties identified as appropriate for affordable housing development 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.





- **Public Employee Discount Program.** The Land Bank may offer any Applicant who is a full time employee of Ulster County, the City of Kingston, New York State Employees or the Kingston City School District a Discount on the purchase price for homes located in the City of Kingston and which the Applicant will occupy as his or her Principal Residence for a specified number of years, subject to Enforcement Debt.
- **Community Development Projects Program.** Developments that propose significant incremental community benefits may be eligible for discounted and nominal pricing. Community benefits may include:
  - Support for existing community facilities or provision of space for new community facilities such as libraries, recreation centers, health centers, computing centers, and playgrounds
  - Significant improvements to community infrastructure including the greening of schoolyards or recreation center yards or other publicly owned parcels to achieve stormwater management, public recreation, community gardening goals or urban agriculture
  - Creation of co-housing, intentional communities, and other creative shared-equity models.
  - Creation of new infrastructure or support for existing infrastructure to improve safety and mobility for children, seniors, and other pedestrians, including sidewalk improvements, pedestrian plazas, traffic medians, or easements for trails.
- **Economic Development Projects Program.** Developments that advance the City’s economic development goals as articulated in the City’s Comprehensive Plan, Kingston 2025 and other City-approved and accepted plans may be eligible for discounted pricing, taking into account any other public financial assistance, investment, and other available project resources. The project must be deemed to have significant economic impact on the City to qualify under this section.
- **Affordable Home-Ownership Program.** The Land Bank may offer a Discount to low & moderate income applicants based upon A.L.I.C.E. guidelines (Asset Limited, Income-Constrained, Employed), subject to the Enforcement Debt. As part of this program, the Applicant must agree to occupy the home as their Principal Residence for a specified number of years, subject to the Enforcement Debt.
- **Permanent Affordability Program.** In order to promote the formation of permanently affordable housing and create more affordable housing opportunities, the Land Bank may make certain properties available for sale to a Community Land Trust (“CLT”) or other local non-profits that can guarantee permanent affordability at a discount. Under this program, residential properties in eligible neighborhoods will be available for purchase by the Land Trust for a limited time. Such a local non-profit shall renovate the Property, if needed, and sell to a low-income buyer who will occupy the home as their Principal Residence and abide by the affordability restrictions outlined in their 99-year ground lease or permanent affordability covenant. The CLT may also rent the home to an income-eligible tenant or sell the structure to an affordable housing non-profit to renovate and either sell or rent. Planned uses and proposals must be aligned with the KCLB’s



mission and values, demonstrably feasible, and aimed at community-driven predictable development outcomes.

- **Community Garden/Green Space Program.** Due to the economic, environmental, and social value of community gardens and green space, the Land Bank may sell, license or lease certain unimproved residential parcels for a nominal fee to Applicants who plan to develop such parcels into community gardens, green spaces, or other public service projects with community benefit. Such an applicant may include the Kingston Land Trust for the purposes of stewardship or other Land Trust priorities.
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- **Additional Discount/Preference Programs.** From time to time, the Land Bank may adopt by resolution of the Board of Directors additional development programs (whether through a joint venture with another partner or solely by the Land Bank), discount or preference programs in furtherance of its purpose or mission.

## SECTION 7: ENFORCEMENT + CONSIDERATION

**Enforcement.** In the event a 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 which measures may include the execution of a Development Enforcement Mortgage in favor of the Land Bank.

**Leasing/Licensing.** It may be in the best interest of the Land Bank and the furtherance of its mission to lease or license its real property under certain circumstances, including, but not limited, to the following circumstances:

**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 or license agreements with any such persons. The Land Bank may offer occupants relocation assistance if the real property is not habitable or otherwise unsafe, or if the occupants are unwilling to enter into lease agreements.

**Properties Pending Sale.** The Land Bank may lease or license a parcel of real property for which a sale is pending in order to allow the prospective buyer to enhance the value of the real property and prevent vandalism to which vacant properties are susceptible.

**Consideration.** In accordance with the terms and conditions of the Land Bank's programs, the Land Bank may accept Enforcement Debt, monetary payments and secured financial obligations, deed restrictions, reverter clauses, annual Principal Residence requirements, covenants and conditions related to the present and future use of the Property, contractual commitments of the Applicant, and such other forms of consideration as are consistent with state and local law.



**Appeals Process.** The Land Bank shall establish an internal appeal process for its properties wherein an affected individual or an organization may request reconsideration of a decision made by the Land Bank and submit evidence relevant to determinations on general eligibility, eligibility for reduced or nominal pricing, the value of a property, and compliance with terms or conditions of sale. Any such appeal will be reviewed by The Contracting Officer in consultation with Legal Counsel for the purposes of making a recommendation to the full Board. The final decision will be made by the Board of Directors to either uphold the original decision or honor the appeal.

## **SECTION 8. LAND BANKING AND PLANNED DEVELOPMENT**

In some instances the Land Bank may choose to acquire a 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 may 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 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. 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.