

**Pottstown Borough Land Bank  
Administrative Policies and Procedures**

**As approved and adopted by the Land Bank Board of Directors, January 28, 2019**

**As approved by the Council of the Borough of Pottstown on February 11, 2019**

**As revised by the Land Bank Board of Directors, September 27, 2021**

**Approved as revised by the Council of the Borough of Pottstown, February 14, 2022**

These policies and procedures are a codification of all policies and procedures of the Pottstown Borough Land Bank (hereinafter “PBLB”).

**Section 1. Role as a Public Body.**

- 1.1 Public Entity.** PBLB is a public entity authorized by state law and created pursuant to Ordinance No. 2169 approved by the Burgess and Town Council of the Borough of Pottstown (“Council”) on November 13, 2017 (“Land Bank Ordinance”).
- 1.2 Governing Authority.** The core governing documents of PBLB are Act 153 of 2012, codified at 68 Pa.C.S. §§ 2101–2120 (hereinafter the “Land Bank Act”), the Land Bank Ordinance, and the Bylaws adopted by the Pottstown Borough Land Bank Board on January 28, 2019.
- 1.3 Purpose.** The purpose of PBLB is to effectively facilitate the return of blighted, abandoned and functionally obsolete properties to productive reuse through creative leadership that engages key partners to leverage a variety of resources.

**Section 2. Property Acquisitions by PBLB**

- 2.1 Sources of Property Inventory.** Sources of real property acquisitions of PBLB include, but are not limited to, the following:
  - (a) Transfers from local and county governments, authorities, or agencies;
  - (b) Acquisitions by PBLB at tax foreclosure and mortgage foreclosure sales;
  - (c) Donations;
  - (d) Market purchases; and
  - (e) Conduit transfers contemplating the simultaneous acquisition and disposition of property.
- 2.2 General Policies Governing the Acquisition of Properties.**
  - 2.2.1** Properties may be acquired through one of two methods: 1) a “standard acquisition” by PBLB for future disposition to an undetermined end user; or 2) a “conduit transfer,” in which PBLB purchases a property for transfer to an identified end user.
  - 2.2.2** In determining which, if any, properties shall be acquired, PBLB shall consider the following factors:
    - (a) Proposals and requests by the Borough of Pottstown;
    - (b) Proposals and requests by individuals and for-profit and nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment;

- (c) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment;
- (d) Acquisition will create or preserve home ownership opportunities;
- (e) Improved properties that are appropriate for demolition of the improvements;
- (f) Vacant properties that could be placed into a Side Lot Disposition Program;
- (g) Properties that form a part of a land assemblage development plan;
- (h) Properties that will generate operating resources for the functions of the PBLB;
- (i) Properties that support implementation of strategic neighborhood stabilization and revitalization plans

2.2.3 In the case of an offer to donate a property to PBLB, staff should consider all the above factors as well as those described in paragraph 2.3 below. PBLB will not determine the value of the donated property for the purpose of tax benefits but will provide a letter describing the property donated.

## **2.3 Process for Acquiring Properties.**

2.3.1 The PBLB may use any process for acquiring properties as authorized by law and within its discretion.

2.3.2 The acquisition of any property by the PBLB must be approved by the Land Bank Board of Directors.

2.3.3 A transaction agreement must be executed by the PBLB and the grantor of the property except in those cases when the PBLB acquires the property at a mortgage or tax foreclosure sale.

2.3.4 In the case of conduit transfers, such a transaction agreement will generally be in the form of an Acquisition and Disposition Agreement prepared in accordance with these policies and procedures.

2.3.5 PBLB staff is authorized to create transaction agreements in the form and content as deemed by PBLB to be in the best interest of the PBLB and shall include to the extent feasible specification of all documents and instruments contemplated by the transaction as well as the rights, duties, and obligations of the parties.

2.3.6 For each proposed acquisition, PBLB staff shall prepare a written report for the Board with a recommendation to purchase that includes, at a minimum and where applicable, the following information and determinations:

- (a) If the purchase is consistent with paragraph 2.2 above.
- (b) If clear title can be conveyed by the transferor to the PBLB (see 2.4 below).
- (c) If there are any potential environmental or structural issues that should be investigated and resolved prior to the purchase by PBLB (see paragraph 2.5 below).
- (d) If the property is not to be donated or available for nominal consideration, a fair value of the property consistent with these policies and procedures.

2.3.7 As noted above, a transaction agreement between the grantor and the PBLB is not required when the PBLB acquires a property at a tax foreclosure sale, including a judicial sale.

However, if the PBLB is acquiring a property at a tax foreclosure sale as part of a conduit transfer, the PBLB and the identified end user shall enter into an Acquisition and Disposition Agreement whereby the identified end user agrees to purchase the property if the Land Bank acquires title to the property at the tax sale. The Land Bank Act grants land banks the power to acquire tax delinquent properties at judicial sales through a negotiated agreement with the plaintiff (typically the County Tax Claim Bureau, the Borough of Pottstown, and/or the Pottstown School District) and without competitive bidding.

2.3.8 PBLB's acquisition of property at a tax foreclosure sale shall be in accordance with any approvals given by the PBLB Board, the Land Bank Act, the Land Bank Ordinance, these policies and procedures, and any agreements negotiated with the Tax Claim Bureau of Montgomery County, the Borough of Pottstown, or the Pottstown School District.

- 2.4 Title Insurance.** In acquisitions of property by PBLB through transaction agreements, the PBLB generally requires a certificate of title based upon a full title examination and, in the case of Land Banking Agreements, a policy of title insurance insuring PBLB subject to such outstanding title exceptions as are acceptable to PBLB in its sole discretion. In those circumstances when the title is not insurable, PBLB may elect to acquire the property with the intention of initiating a quiet title action.
- 2.5 Environmental Concerns.** PBLB reserves full and complete discretion to require in all transaction agreements that satisfactory evidence be provided to PBLB that the property is not subject to environmental contamination as defined by federal or state law. At a minimum, seller shall complete a disclosure noting any known potential environmental issues.

### **Section 3. Priorities for Property Repurposing**

- 3.1 Disposition Priorities.** In transferring properties to organizations or individuals, the PBLB shall be guided by the disposition priorities established under the Land Bank Ordinance:
- (a) Owner-occupied market rate housing units;
  - (b) Retail, commercial and industrial activities, including mixed-use development;
  - (c) Housing options for every income level;
  - (d) Vacant residential parcels conveyed to neighboring property owners for side and rear yards;
  - (e) Urban agriculture and community open space; and
  - (f) Public purpose.
- 3.2 Community Improvement Purposes.** In transferring properties to organizations or individuals the PBLB shall keep in mind community improvement purposes consistent with:
- (a) Neighborhood revitalization plans;
  - (b) Return of the property to productive tax-paying status;
  - (c) Land assemblage for economic development;
  - (d) Long term "banking" of properties for future strategic uses.

**3.3 Neighborhood and Community Development Considerations.** As indicated above, the PBLB reserves the right to consider the impact of a property transfer on short- and long-term neighborhood and community development plans. In doing so, the PBLB may prioritize the following in any order in which it deems appropriate:

- (a) Improving the quality of neighborhoods and attracting new residents and businesses;
- (b) Increasing the tax base of Pottstown Borough and creating opportunities for economic development and employment;
- (c) Preservation of existing stable and viable neighborhoods;
- (d) Neighborhoods in which a proposed disposition will assist in halting a slowly occurring decline or deterioration;
- (e) Neighborhoods which have recently experienced or are continuing to experience a rapid decline or deterioration; and
- (f) Geographic areas where market conditions are weak for the purposes of residential or commercial development.

#### **Section 4. Conveyance of Properties**

##### **4.1 Definitions.**

*"Property Costs"* shall be defined as the aggregate costs and expenses of the PBLB attributable to the specific property in question, including costs of acquisition, maintenance, repair, demolition, marketing of the property and indirect costs of the operations of the PBLB allocable to the property.

*"Transfer Closing Costs"* shall be defined as all costs incurred by the PBLB in the sale of the property to the transferee including but not limited to transfer taxes, legal fees, filing fees, notary fees, title fees, etc.

*"Transaction Fee"* shall be defined as a fee paid by the transferee of the property at closing in the amount of 2% of the selling price but not less than \$750.

**4.2 Consideration.** The consideration to be provided by the transferee to the PBLB may take the form of cash, deferred financing, performance of contractual obligations, imposition of restrictive covenants, or other obligations and responsibilities of the transferee, or any combination thereof, at the discretion of the PBLB.

##### **4.3 Transfers to Governmental Entities**

- (a) To the extent that transfers of property to governmental entities are designed to be held by such governmental entities in perpetuity for governmental purposes, the aggregate consideration for the transfer may, at the discretion of the PBLB, consist of the "Property Costs" and "Transfer Closing Costs" to be paid in cash as well as a deed restriction upon the use of the property.

(b) To the extent that transfers of property to governmental entities and authorities are anticipated as conduit transfers by such governmental entities to third parties, the aggregate consideration for the transfer may, at the discretion of PBLB, consist of not less than “Property Costs”, “Transfer Closing Costs” and “Transaction Fee” to be paid in cash. Depending on the nature of the end use of the property by the third party, the PBLB reserves the right to sell the property for fair market value plus all fees and costs referenced above.

**4.4 Transfers to Individuals and Non-Governmental Entities.** In the case of transfers of property to individuals or non-governmental entities, other than side yard transfers described in Section 6, the aggregate consideration for the transfer may, at the discretion of the PBLB, consist of not less than the “Property Costs”, “Transfer Closing Costs” and “Transaction Fee” and not more than the fair market value as determined by the PBLB plus all costs and fees. Non-monetary consideration, such as in-kind services, that fulfill the mission and goals of the PBLB may be considered.

**4.5 Basic Transferee Qualifications.** All applicants seeking to purchase property from the PBLB will be required to submit an application on a form provided by the PBLB. Applicants shall provide as part of the application such information as may be requested by PBLB, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, (b) its prior experience in developing and managing real property, and (c) affidavit stating that properties owned by applicant or in which applicant has an ownership interest located in the Borough of Pottstown or the County of Montgomery are not delinquent on taxes, and do not have any outstanding citations for unremediated violations of any applicable state and local codes and ordinances.

**4.6 Reserved Discretion.** PBLB reserves full and complete discretion to decline applications from individuals and entities that meet any of the following criteria:

- (a) failure to perform in prior transactions with the PBLB;
- (b) ownership of properties that became delinquent in tax payments and remain delinquent in tax payments during their ownership;
- (c) parties that have been debarred from transactions with local, state or federal government;
- (d) parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the PBLB;
- (e) parties that owned property foreclosed on for tax delinquency;
- (f) properties that have been used by the purchaser or a family member of the purchaser as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases).

**4.7 Process for Conveying Properties.**

4.7.1 The PBLB may use any process for conveying properties as authorized by law and within its discretion.

4.7.2 All conveyances of property shall be approved by the PBLB Board.

4.7.3 The process for conveying a property from the PBLB to an individual or entity shall include a completed application from the proposed transferee.

4.7.4 For each proposed conveyance, PBLB staff shall prepare a written report for the Board with a recommendation to convey the property to the proposed transferee that includes, at a minimum and where applicable, the following information and determinations:

- (a) The applicant meets the basic transferee qualifications set forth in paragraph 4.5 above;
- (b) If the applicant meets any of the criteria set forth in paragraph 4.6 above;
- (c) The proposed conveyance meets the priorities for property disposition set forth in Section 3 above;
- (d) The applicant has the capacity to undertake and complete the property development as proposed;
- (e) The applicant has the financial resources to undertake and complete the property development as proposed.

4.7.5 A Disposition Agreement shall be prepared by the PBLB staff that includes terms and conditions for the reuse of the property as well as a description of how the terms and conditions will be monitored in the future.

**4.8 Covenants, Conditions and Restrictions.** All conveyances by the PBLB to third parties shall include such covenants, conditions and restrictions as the PBLB deems necessary and appropriate in its sole discretion to ensure the use, rehabilitation and redevelopment of the property in a manner consistent with the public purposes of the PBLB. Such requirements may take the form of a deed creating a defeasible fee or reversion, recorded restrictive covenants, subordinate financing being held by the PBLB, contractual development agreements, or any combination thereof. PBLB will also include language in the Disposition Agreement that the transferee is precluded from appealing the post development assessed value as determined by the County Assessment office for a period of five years following the transfer of the property.

**4.9 Deed without Warranty.** All conveyances from PBLB to third parties shall be by Quitclaim Deed.

## **Section 5. Owner-Occupant Policy.**

**5.1 Requirements and Conditions.** Most of the properties the PBLB will acquire will be vacant. However, in the event that it acquires a property that is the primary place of residence for an owner-occupant through the tax or mortgage foreclosure sale process or other means, it shall make best efforts not to displace the owner-occupant and establish payment plans for any delinquent liens that have been acquired by the PBLB. To this end, if feasible, PBLB may offer to lease the premises to the prior owner-occupant at fair market value for a period not less the six

months. The residence shall remain the primary residence of the household during the lease period.

## **Section 6. Side Lot Disposition Program.**

- 6.1 Side Lot/Structure Transfers.** Improved (those with an existing structure that is feasible to rehabilitate) or unimproved parcels may be acquired by PBLB and transferred to individuals or entities owning contiguous property in accordance with the policies described below. The transfer of any given improved or unimproved parcel in the Side Lot Disposition Program is subject to override by higher priorities as established by the PBLB.
- 6.2 Qualified Properties.** Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:
- (a) The parcel shall be a vacant improved or unimproved real property;
  - (b) The parcel shall be physically contiguous with not less than a 75% common boundary line at the side;
  - (c) Intended use for the improved or unimproved parcel must be disclosed by the transferee and such use shall be consistent with local codes including but not limited to zoning codes.
- 6.3 Side Lot Transferees.**
- (a) All transferees must own the contiguous property, and priority is given to owner-occupied transferees.
  - (b) The transferee must not own any real property in Montgomery County that is subject to any outstanding citation(s) for unremediated violation(s) of state and local codes and ordinances.
  - (c) The transferee must not own any real property in Montgomery County that is tax delinquent.
  - (d) The transferee must not have been the prior owner of any real property in Montgomery County that was acquired by a local government through execution of a judgment relating to municipal liens.
  - (e) The eligibility requirements set forth in this Section 6 are guidelines and may be waived or modified as determined by the Land Bank to accommodate unique circumstances. This may include non-occupant owners and non-adjacent applicants.
- 6.4 Pricing.**
- (a) Parcels of property that are not capable of independent development, i.e., the parcel is not buildable under local zoning laws, may be transferred for a price to be determined by the PBLB consistent with value of the property, if any, as determined by PBLB plus "Transfer Costs" and "Transaction Fees". The PBLB reserves the right, at its discretion, to waive "Transaction Fees" for these side lot transfers.

- (b) Parcels that are capable of independent development shall be transferred for consideration in an amount not less than the “Property Costs”, “Transfer Closing Costs” and “Transaction Fees” as described above.

**6.5 Additional Requirements.**

- (a) As a condition of transfer of an improved or unimproved parcel, the transferee must enter into an agreement that the parcel is not subject to sale, subdivision or partition within a five-year period following the date of the transfer.
- (b) In the event that multiple adjacent property owners desire to acquire the same side parcel, the improved or unimproved parcel shall be transferred to the highest bidder for the property. An unimproved parcel may be subdivided and transferred among the interested contiguous property owners; the cost of the subdivision shall be borne by the property owners.
- (c) The improved or unimproved parcel must remain a separate parcel for assessment purposes so the PBLB may benefit from tax recapture going forward.
- (d) The PBLB may include additional requirements for any transfer of parcels capable of independent development.