



WNCLB POLICIES AND PROCEDURES

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The Wilmington Neighborhood Conservancy Land Bank Policies and Procedures

Mission

The mission of the Wilmington Neighborhood Conservancy Land Bank (WNCLB) is to return vacant, dilapidated, abandoned, and delinquent properties to productive use, while strengthening and revitalizing our neighborhoods and inspiring economic development.

We Accomplish Our Mission in a Way That:

- Is purposeful, transparent, and for the public good;
- Improves the coordination of resources and collaboration within and between governments, community organizations, and the private sector;
- Is both economically efficient and sustainable;
- Reflects the goals and objectives of the City's comprehensive development plan; and
- Invests in existing neighborhoods.

The acquisition and disposition of properties owned by the Wilmington Neighborhood Conservancy Land Bank (WNCLB) according to the provisions of the Ordinance establishing the WNCLB (Ord. No. 15-040) shall be guided by the following policies:

Section 1. Role as a Public Authority.

1.1 Public Authority.

The WNCLB is a not-for-profit public entity authorized by Title 31, Chapter 47 of the Delaware Code and enacted in Wilmington on November 20, 2015 pursuant to Substitute 1 for Ordinance 15-040 establishing the Wilmington Neighborhood Conservancy Land Bank. It is governed by a board of directors consisting of representatives as specified by the legislation.

1.2 Governing Authority.

The core governing documents of the WNCLB are the City of Wilmington Code of Ordinances, the WNCLB Rules for the board of directors adopted September 6, 2017, and those Policies and Procedures approved and adopted by the WNCLB Board of Directors now and in the future.

1.3 Purposes.

The WNCLB is established to acquire, hold, and transfer interest in real property throughout the City of Wilmington to: (a) promote redevelopment and reuse of vacant, abandoned, foreclosed or tax-delinquent properties; (b) support targeted efforts to stabilize neighborhoods; (c) stimulate residential, commercial, and industrial development; and (d) undertake its actions in ways that are consistent with the goals and priorities established by local government partners and other community stakeholders.

Section 2. Priorities for Property Acquisition and Disposition.

2.1 Impact of Property Transfer.

The WNCLB shall consider the impact of a property transfer, including without limitation, any form of acquisition or disposition on short and long-term neighborhood and community development plans. The WNCLB may consider the following in any order in which it deems appropriate: the preservation of existing stable and viable neighborhoods; neighborhoods in which a proposed disposition will assist in halting an ongoing decline or deterioration; neighborhoods which have recently experienced, or are continuing to experience, a rapid decline or deterioration; geographic areas which are predominantly non-viable for purposes of residential or commercial development; opportunities to assemble multiple parcels to facilitate the development of new housing and to encourage economic growth.

2.2 Priorities for Property Use.

The WNCLB has the following priorities for use of WNCLB properties:

- (a) Neighborhood Revitalization including the return of vacant, blighted, abandoned, or foreclosed property to productive status; land assemblage for economic development; long-term “banking” of properties for future strategic uses;
- (b) Affordable housing including the preservation, production, or rehabilitation of housing for persons with low to moderate incomes, and the preservation of long-term land affordability through community land trusts or similar not-for-profit or public entities. On an annual basis, the board of directors will review and approve the WNCLB policies and guidelines for the acquisition, management, and disposition of property assets and applicable definitions of “low income” and “moderate income” for purposes of carrying out the activities of the WNCLB;
- (c) Economic development including use and development of property that promotes job creation and may generate revenue for WNCLB operations and future WNCLB investment in City of Wilmington’s communities; and
- (d) Conservation including the preservation and re-use of land for environmental conservation, urban gardens, and other greening purposes.

2.3 Neighborhood Outreach.

The WNCLB, when applicable and feasible, will consult with the Office of the Mayor and the City of Wilmington City Council members, neighborhood associations, and nonprofit entities in the geographical location of the property.

Section 3. Priorities for Property Transferees.

3.1 Priority Transferees.

Except where limited by the terms of its acquisition, the WNCLB may, at its discretion, give priority to transferees of WNCLB properties including, but not limited to, non-profit or for-profit entities seeking to obtain the land for neighborhood revitalization, affordable housing, economic development, or conservation purposes described in section 2.2 above. The WNCLB may also, at its discretion, give priority to transferees including: the City of Wilmington (or its designees), nonprofit institutions, such as academic institutions, and religious institutions; entities that are a partnership or limited liability corporation, or joint ventures comprised of a private nonprofit corporation and a private for-profit entity; individuals who own and occupy residential property for purposes of the Side Lot Disposition Program; and individuals who seek to own and occupy residential property obtained from the WNCLB.

3.2 Transferee Qualifications.

All applicants seeking to acquire property from the WNCLB, or to enter into a transaction agreement with the WNCLB, will be required to provide, as part of the application, such information as may be requested by the WNCLB, including but not limited to: (a) the legal status of the applicant, its organizational and financial structure, and operational and financial capacity; and (b) the applicant's prior experience in developing and managing real property.

3.3 Reserved Discretion.

The WNCLB reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities. Relevant criteria in such a decision may include but are not limited to:

- (a) Failure to perform in prior transactions with the WNCLB;
- (b) Prior or current ownership of properties that are delinquent with any of the following: city, county, school tax payments, city fines, and utilities;
- (c) Parties that are barred from transactions with local government entities;
- (d) Parties that are unable to demonstrate sufficient experience and capacity – financial or otherwise - to perform in accordance with the requirements of the WNCLB;
- (e) ownership of properties that have any un-remediated citation for violation of federal, state and local codes, ordinances and regulations; and
- (f) Application for properties that have been used by the applicant or a family member of the applicant as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application.

Section 4. Acquisition of Real Property.

4.1 Sources of Property Inventory.

Sources of real property inventory of the WNCLB include, but are not limited to, the following:

- (a) Transfers from the State of Delaware, local governmental units, and intergovernmental entities;
- (b) Acquisitions by the WNCLB in the name of City of Wilmington at tax sales conducted in accordance with the Wilmington City Code;
- (c) Donations from private persons and entities;
- (d) Market purchases;
- (e) Conduit transfers contemplating the simultaneous acquisition and disposition of property; and
- (f) Other transactions such as land banking depository agreements.

In determining the nature and extent of properties to be acquired, the WNCLB will also give consideration to criteria including, but not limited to, the underlying values of the subject properties, the financial resources available for acquisitions, and the operational capacity of the WNCLB.

4.2 Policies Governing the Acquisition of Properties.

In determining which, if any, properties will be acquired by the WNCLB, the WNCLB will give consideration to the following factors:

- (a) Proposals and requests by nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment;
- (b) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment;
- (c) Improved properties that are the subject of an existing order for demolition of the that meet the criteria for demolition of improvements;
- (d) Vacant properties that could be placed into a Side Lot Disposition Program;
- (e) Properties that would be in support of strategic neighborhood stabilization and revitalization plans;
- (f) Properties that would form a part of a land assemblage development plan;
- (g) Properties that may generate operating resources for the functions of the WNCLB; and
- (h) Properties that are currently affordable but at risk of losing affordability and properties that lend themselves to affordable housing development.

4.3 Acquisitions through Delinquent Tax Enforcement Proceedings.

The WNCLB may acquire properties through the delinquent tax enforcement process including, but not limited to, acquisitions at tax sales or subsequent to such sales as authorized by law.

4.4 Transaction Agreements.

In all cases involving conduit transfers and land banking agreements, a transaction agreement will be approved in advance by the WNCLB and the grantor of the property. In the case of conduit transfers such a transaction agreement, the conveyance will generally be in the form of an acquisition and disposition agreement prepared in accordance with these policies. In the case of a land banking relationship, such a transaction agreement, conveyance will generally be in the form of a land banking agreement prepared in accordance with these policies. These transaction agreements shall be in form and content as deemed by the WNCLB to be in the best interest of the WNCLB 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.

4.5 Title Assurance.

In all acquisitions of property by the WNCLB through transaction agreements, the WNCLB 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 the WNCLB subject to such outstanding title exceptions as are acceptable to the WNCLB in its sole discretion.

4.6 Environmental Concerns.

The WNCLB reserves full and complete discretion to require in all transaction agreements, satisfactory evidence be provided to WNCLB confirming that the property is not subject to environmental contamination as defined by federal or state law.

Section 5. Disposition of Real Property.

5.1 General Consideration.

The form of consideration to be provided by the transferee to the WNCLB is in the sole discretion of the WNCLB and 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. The following factors are general guidelines for determination of the consideration to be received by the WNCLB for the transfer of properties. The WNCLB will require good and valuable consideration as determined by the WNCLB. Notwithstanding anything to the contrary set forth in this Section, the extent to which the WNCLB utilizes this formula will be made on a property by property basis in light of the specifics of a given situation.

5.2 Transfers to Nonprofit Entities for Affordable Housing.

- (a) Transfers of property to nonprofit entities for the development, operation, or maintenance of affordable housing will generally require consideration not less than the property costs;
- (b) Consideration will generally be established at a level between the property costs and fair market value of the property. To the extent that the consideration exceeds the property costs, such amount may be reflected by a combination of contractual obligations to develop, maintain, or preserve the property for specified affordable housing purposes; and
- (c) A key factor in determining the amount of and method of payment of the consideration shall be to facilitate the development of affordable housing and simultaneously to ensure that the property is dedicated over an appropriate period of time for affordable housing.

5.3 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 will generally be based on deed restrictions upon the use of the property, unless other forms or levels of consideration are appropriate; and
- (b) To the extent that transfers of property to governmental entities are anticipated as conduit transfers by such governmental entities to third parties, the consideration will generally consist of not less than the property costs, ordinarily to be paid in cash. The difference between the property costs and the fair market value may be included in the consideration depending upon the relationship between the anticipated uses and the governing priorities of the WNCLB.

5.4 Transfers of Property at Open Market Conditions.

Property that is transferred on the open real estate market, whether through auction or negotiated transfers, without restrictions as to future use, will generally be based upon consideration equal to the fair market value of the property. Such consideration ordinarily will be paid in-full at the time of the transfer.

5.5 Side Lot Disposition Program.

The pricing policies applicable to the Side Lot Disposition Program shall be as set forth in the policies and procedures applicable to the Side Lot Disposition Program.

5.6 Covenants, Conditions and Restrictions.

All conveyances by the WNCLB to third parties shall include such covenants, conditions, and restrictions as the WNCLB 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 WNCLB. In the discretion of the WNCLB, such requirements may take several forms including, but not limited to, a deed creating a defeasible fee, recorded restrictive covenants, subordinate financing being held by the WNCLB, contractual development agreements, local hiring requirements or any combination thereof.

5.7 Options.

Optional transactions will be considered on a case-by-case basis under terms deemed appropriate by the WNCLB. All option agreements are subject to all policies and procedures of the WNCLB pertaining to property transfers.

5.8 Deed Without Warranty.

All conveyances from the WNCLB to third parties will be by Quitclaim Deed, unless otherwise specifically agreed to.

Section 6. Conduit Transfers with Nonprofit Entities.

6.1 Transactions with Nonprofit Entities.

The WNCLB may enter into conduit transfers with nonprofit corporate entities as generally outlined in this section. In these transactions, the nonprofit corporate entities will secure donations of tax delinquent properties or purchase tax delinquent properties from owners, transfer these properties to the WNCLB for extinguishment of delinquent taxes, and reacquire these properties for use in affordable housing development, preservation, neighborhood revitalization, and economic development.

6.2 Agreements with Local Governments.

Pursuant to agreements with participating local governments, the WNCLB may extinguish delinquent taxes which were not the responsibility of the transferring nonprofit entity.

6.3 Eligibility.

Eligibility for this option will be based on certain criteria. These shall include: the geographical location of the property, qualifications of the nonprofit transferee described in section 3.2 above and intended use of the property.

6.4 Documentation of Lot Purchase.

The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:

- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
- (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs);
- (c) The development costs impacting the final sale price; and
- (d) The total amount of delinquent taxes, special assessments, and other liens and encumbrances against the property and the length of delinquency for each.

6.5 Maximum Costs.

The total of these costs should exceed the maximum allowable lot cost before the WNCLB generally will consider the extinguishment of delinquent taxes in total or in part.

6.6 WNCLB Discretion.

Some properties may present unusual or extenuating circumstances due to lack of funding for proposed development or related costs. Notwithstanding sections 6.1-6.5 above, the WNCLB reserves the right to evaluate and consider approving such properties for conduit transfer on a case-by-case basis.

Section 7. Conduit Transfers with For-Profit Entities.

7.1 Transactions with For-Profit Entities.

At the approval of the Disposition Committee and WNCLB Board of Directors, the WNCLB may make an exception to enter into conduit transfers with for-profit corporate entities as generally outlined in this section. In these transactions, the corporate entities will secure donations of tax delinquent properties or purchase tax delinquent properties from owners, transfer these properties to the WNCLB for extinguishment of taxes, and reacquire these properties for use in affordable housing development, preservation, and neighborhood revitalization, stabilization and economic development.

7.2 Eligibility.

Eligibility for this option will be based on certain criteria which shall include the geographical location of the property. The corporate entity will ordinarily first be required to identify and consult with any active nonprofit entities that may have an interest in developing the property. If an interest exists, the nonprofit and for-profit must make a good faith effort, as judged by the WNCLB in its sole discretion, to enter into an agreement for joint development.

7.3 Documentation of Property Purchase.

The applicant must document the purchase process extensively. This documentation should include, but is not limited to, the following information per parcel:

- (a) The total purchase price for the property, including the net proceeds paid or payable to the seller;
- (b) The total amount spent to acquire the property (e.g., legal counsel, administrative costs, etc.);
- (c) The development costs impacting the final sale price; and

(d) The total amount of delinquent taxes (New Castle County, City, school district), special assessments, and other liens and encumbrances against the property, and the length of delinquency for each.

7.4 Maximum Costs.

The total of these costs should exceed the maximum allowable property cost before the WNCLB generally will consider the extinguishment of delinquent taxes in total or in part.

7.5 WNCLB Discretion.

Some properties may present unusual or extenuating circumstances due to lack of funding for the proposed development or related costs. Notwithstanding sections 7.1-7.5 above, the WNCLB reserves the right to evaluate and consider approving such properties for conduit transfer on a case-by-case basis.

Section 8. Conduit Transfers for Community Improvements.

8.1 Community Improvement Property.

The WNCLB may accept donations of property to be transferred into a non-revenue generating, non-tax-producing use that is for community improvement, neighborhood stabilization or other purposes consistent with these policies.

8.2 Eligibility.

Properties can be conveyed to the WNCLB for extinguishment of delinquent taxes and then re-conveyed by the WNCLB to be utilized for community improvement purposes, including but not limited to, community gardens, parking for nonprofit functions, such as a school or a cultural center, or a playground for after-school or day care. The application must demonstrate that the proposed community improvements are consistent with the area redevelopment plans and community revitalization plans.

8.3 Transferee.

The application must identify and be signed by the ultimate transferee of the property from the WNCLB. The transferee ordinarily will be a governmental entity, a not-for-profit property entity, or a for-profit entity that is capable of holding and maintaining the property in the anticipated conditions and purposes.

8.4 Restrictive Covenants.

The WNCLB, in the conveyance of the property to the transferee, may impose covenants, conditions and restrictions as necessary to ensure that the property is used for community improvement or other purposes are consistent with these policies.

Section 9. Side Lot Disposition Program.

9.1 Side Lot Transfers.

Individual parcels of property may be acquired by the WNCLB and transferred to individuals in accordance with the following policies. The transfer of any given parcel of property in the Side Lot Disposition Program is subject to be overridden by higher priorities as established by the WNCLB.

9.2 Qualified Properties.

Parcels of property eligible for inclusion in the Side Lot Disposition Program will generally meet the following minimum criteria:

- (a) The property will be vacant unimproved real property;
- (b) The property will be physically contiguous to adjacent owner-occupied residential property, with not less than a 50% common boundary line at the side, and;
- (c) No more than one lot will ordinarily be transferred per contiguous lot.

9.3 Side Lot Transferees.

- (a) All transferees must own the contiguous property, and priority is given to transferees who personally occupy the contiguous property;
- (b) The transferee must not own any real property (including both the contiguous lot and all other property in the City) that is subject to any un-remediated citation of violations of the state and local codes and ordinances;
- (c) The transferee must not own any real property (including both the contiguous lot and all other property in the City) that is tax delinquent; and
- (d) The transferee must not have been the prior owner of any real property in the City that was transferred to a local government as a result of tax sale proceedings unless the WNCLB approves the anticipated disposition prior to the effective date of completion of the tax sale proceedings.

9.4 Pricing.

Parcels of property that are not capable of independent development will ordinarily be eligible for transfer for nominal consideration; and

9.5 Additional Requirements.

- (a) As a condition of lot transfer, the transferee will ordinarily be required to enter into an agreement that the lot transferred will be consolidated with the legal description of the contiguous lot, and not subject to subdivision or partition within a five-year period following the date of the transfer; and
- (b) In the event that multiple adjacent property owners desire to acquire the same side lot, the lot shall be transferred to the highest bidder for the property or divided and transferred among the interested contiguous property owners, or pursuant to some other division as determined by the WNCLB.

Section 10. Urban Garden Lease Program

10.1 Qualified Properties

Parcels of property eligible for inclusion in the Urban Garden Lease Program will meet the following:

- (a) The property is a vacant and unimproved lot;
- (b) No immediate plans for development;
- (c) No more than one lot will be transferred to an applicant unless approved otherwise by the Disposition and Governance Committees and the WNCLB Board of Directors.

10.2. Urban Garden Lessee

- (a). The lessee must demonstrate a viable plan for the proposed Urban Garden approved by the Disposition and Governance Committees with final approval taking place at the WNCLB Board of Directors meeting. The WNCLB, at its discretion, may present the application to the Delaware Center for Horticulture for further review.
- (b). The lessee must not own any real property that is subject to any outstanding code violations, property/school tax bills, liens, and/or housing judgements.

(c). The lessee must obtain the community members' approval at the designated civic association meeting in the district where the parcel is located. Should a civic association not exist for the district, lessee must obtain the City of Wilmington Council Member's approval in the district where the parcel is located.

10.3. Lease

- (a). This is a "lease agreement" program only and ownership of the vacant lot remains with the WNCLB.
- (b.) The lease is for a one-year term, and the WNCLB, at its discretion, may choose to extend the lease term.

Section 11. Rental Policy.

The Wilmington Neighborhood Conservancy Land Bank announces its equal opportunity rental initiative, established to transform vacant and deteriorated properties into quality, affordable rental housing to help revitalize neighborhoods and elevate the quality of life in the City of Wilmington.

11.1 Qualified Applicants.

- (a) If applicant has previous real estate experience in the City of Wilmington with a negative real estate history including, but not limited to, property tax delinquency, code violations, liens or foreclosures, the application will be denied unless applicant can demonstrate that the identified matter has been resolved to the full satisfaction of WNCLB.
- (b) WNCLB requires each applicant to produce a detailed budget, including the purchase price and rental cost as provided in the application.
- (c) Applicant's proposed budget and other disclosures must demonstrate adequate financial capacity to purchase and maintain the property to the satisfaction of WNCLB.
- (d) If the applicant has not prior rental management experience in the City of Wilmington, Delaware, a certified first-time landlord course must be completed after the application's approval and delivered prior to settlement. After WNCLB receives notification that the investor owner has satisfactorily completed the course certification, the property settlement can occur if all other conditions have been met. WNCLB will provide a list of available courses.
- (e) WNCLB requires applicant to provide adequate procedures, as determined by WNCLB, for the maintenance and management of the rental unit. Please note, the City of Wilmington Code requires the use of a local property management company if the applicant does not live in New Castle County, Delaware.

11.2. Quality Affordable Rentals.

- (a) Applicant's renovations must include energy star efficient appliances and LED lighting including any and all other requirements as detailed in WNCLB's Quality Affordable Housing Standards.

(b) All investor owners must adhere to, and not exceed, the monthly rental prices per unit type as provided by the HUD Fair Market Rent Documentation System for Wilmington, Delaware. The HUD Fair Market Rental pricing, by state, county, and zip code, can be found at the following link:

<https://www.huduser.gov/portal/datasets/fmr.html>:

11.3. Quality Affordable Rentals Enforcement.

(a) To ensure quality, all projects are subject to 2 inspections by a WNCLB representative. The rental property owner must provide WNCLB with a copy of the Certificate of Occupancy prior to rental.

(b) The investor owner is required to apply and maintain in good standing a City of Wilmington Residential Property Rental License, a City of Wilmington Business License as well as a State of Delaware Business License.

Section 12. Approval of Property Transfers.

All property transfers require the approval of the Disposition Committee with final approval taking place at the following WNCLB Board of Directors meeting. Should two applications exist for the same parcel meeting all of the necessary requirements, special preference will be given to applicants located in the City of Wilmington and/or applicants utilizing local workforce.

Section 13. Interpretations of Policies and Procedures & Revisions.

13.1 Interpretations.

The WNCLB Board of Directors shall have the sole authority to interpret these policies and procedures. The WNCLB Board of Directors may adopt additional internal administrative guidelines to clarify, expand, or provide further detail on any of the policies contained herein. Any such internal administrative guidelines must be in writing and must not contradict these policies and procedures.

13.2. Revisions.

These policies and procedures will be revised as needed and adopted by WNCLB's Board of Directors. WNCLB will maintain a record of all policies and procedures it has adopted, and the date of all revisions.