

EXHIBIT H

CHAUTAUQUA COUNTY LAND BANK CORPORATION

**LAND ACQUISITION AND DISPOSITION
POLICIES AND PRIORITIES**

November 14, 2012

**This document is intended to provide guidance to the Chautauqua County Land Bank to use land banking as part of their community development and land use strategy. These policies and priorities should be used as samples and to be used as a guide or template. Please keep in mind that every policy listed in this sample may not be applicable to your specific program.*

Policies Governing the Acquisition of Properties

The acquisition of properties by the Chautauqua County Land Bank Corporation, herein referred to as 'Land Bank', shall be governed by the following basic considerations and factors:

- Annually, the Land Bank shall acquire, to the extent possible, the following types of properties in the following proportions:

Type A Properties – Approximately 1/2 of all properties acquired by the Land Bank annually shall be "A" Properties. These are properties that show promise in terms of the potential impact for reconstruction or perhaps demolition. They may be highly visible properties, properties that are identified in a plan, they may be the worst property on a block that otherwise has a decent stock, they may have an unfortunate history, they may have good "bones" (architecturally speaking), or they may have a developer who is interested in investing money into the project (an end game), but cannot afford to get into a bidding war as their future investment in the property will not make economic sense. These are typically foreclosed properties chosen prior to the auction.

Type B Properties – Approximately 1/3 of all properties acquired by the Land Bank annually shall be "B" Properties. These properties may be undesirable in their current state; however, it is envisioned that with some attention they can be brought up to a state where they are attractive to a reputable developer. It is believed that a conservative investment in cleaning up the property, installing a new roof, etc., would make the property attractive for development. These properties are worth saving based on their location and bones, but may require some attention prior to sale. They may be properties that are selected prior to the foreclosure auction or were not sold at the foreclosure auction and are selected after the auction.

Type C Properties – Approximately 1/6 of all properties acquired by the Land Bank annually shall be "C" Properties. Historically, approximately 2/3 of the properties on the foreclosure list typically have structures on them and 1/3 do not. These properties are the "worst of the worst" that may be acquired prior to the foreclosure auction, after the foreclosure auction or after the RFP sale. In most cases, the "C" properties with structures will be demolished and it

is the intent that these properties will be granted over to the adjoining landowner or to other interests so that they can be put back on the tax roll.

- The Land Bank shall strive to acquire a total of approximately (6) properties in Year 1, and grow by (6) properties each year, i.e., (12) properties in Year 2, (18) properties in Year 3, (24) properties in Year 4, etc.
- Proposals and requests by governmental, nonprofit and for-profit entities that identify specific properties for ultimate acquisition and redevelopment, which: a) act as catalyst for further development; b) are part of a comprehensive development plan; c) support infrastructure, public and green space development; or d) reduce blight in the community. In particular, acquisition will be prioritized where the land bank participation is necessary to complete the redevelopment. In the case of municipal involvement, inter-local agreements (if required for development or maintenance) must be in place prior to acquisition.
- Properties located in reinvestment areas that would support strategic neighborhood stabilization and revitalization plans.
- Properties that meet the criteria for demolition, and such demolition will support blight elimination and neighborhood revitalization plans (Type C Properties). This activity is contingent upon the funding available for the Land Bank to facilitate demolition and any partnerships that may involve matching funding, such as HUD CDBG funding.
- Properties that would form part of a land assemblage development plan by either the land bank or partnering entities. (e.g. land banking)
- Vacant, non-conforming, or undevelopable properties that could be placed into a Side Lot Disposition Program or support a planned development (Type C Properties).
- Properties that may generate operating support for the functions of the Land Bank (Type A & B Properties).
- Properties must be absent of any financial liabilities.
- The Land Bank must be aware of any environmental conditions. If any adverse conditions are determined, a remediation plan with secured funding must be in place prior to consideration for acquisition by the Land Bank.
- Properties that would allow for the creation or expansion of green or community space and urban gardens (Type C Properties).

- Properties for which title issues are preventing the property from being developed to its highest and best use.
- Properties that have a designated end use in place prior to acquisition.
- Properties that are near schools, senior centers, or high visible areas that may pose safety issues to the community.
- All acquisitions shall be selected by the Land Acquisition and Disposition Committee, and shall be approved by the Land Bank Board prior to consummation of the transfer. Any exceptions to the policies governing acquisition shall be approved by the governing body of the Land Bank for approval.
- The Board of Directors must approve all acquisition and disposition of Properties.
- Properties will be selected that support the mission of the Land Bank.
- Properties with adverse environmental conditions will not be accepted without a satisfactory funded plan for remediation approved by the Land Bank.
- The Land Bank will not determine the value of the donated property for the purpose of tax benefits, but will provide a letter describing the property donated.
- The Land Bank will not accept donated properties with a balance due to the County or local unit for outstanding property tax and/or liens.
- The Land Bank will accept properties that are located within targeted areas of interest.
- All donated properties must be approved by the Land Bank's Board of Directors by a majority vote.

**Properties may be acquired through tax foreclosure; bank and mortgage foreclosure; donation; purchase.*

Policies Governing the Disposition of Properties

The disposition of properties shall be based upon a combination of two different factors: 1) The intended or planned use of the property, and 2) The nature and identity of the transferee of the property. The disposition of any given parcel will be based upon an assessment of the most efficient and effective way to maximize the benefits of an aggregate of the identified policies and priorities. The Board and Staff of the Land Bank shall at all times retain flexibility in evaluating the appropriate balancing of the priorities for the use of the property, priorities as to the nature of the transferee of properties, priorities concerning neighborhood and community development and methods for how properties will be marketed to potential transferees. Pursuant to Section 2896 of the Public Authorities Law, the Chairman shall be the Contracting Officer of the Corporation.

Type of Use of Properties

- Owner-occupant housing
- Mixed owner-occupant and rental housing
- Side lots for transfer to adjoining landowners
- Development of public green space (parks and gardens)
- Mixed use development
- Supportive housing
- Commercial retail
- Commercial Office
- Parking

Nature and Identify of Transferees

- Individuals or families who can demonstrate that they will own, rehabilitate and occupy the residential property for a given period of time.
- Reputable, experienced and qualified real estate developers, partnerships, limited liability corporations, or joint ventures comprised of a private nonprofit corporations and a private for-profit entity.
- Reputable landlords or qualified real estate investors (unless they have judgments against them during the past 5 years regarding a landlord/tenant issue).
- Qualified nonprofits corporations that will hold title to properties on a long-term basis (primarily rental properties) or hold title to the property for purposes of subsequent redevelopment and re-conveyance to private third parties for homeownership.
- Local government entities that will use properties for a public purpose.

- Businesses that will own and occupy commercial properties.

General Land Disposition Policies

In determining the requirements for property disposition by the Land Bank, the following considerations shall be made. These policies pertain to the transfer of property that may be improved or unimproved.

- Individuals and entities that were the prior owners of property at the time of the tax foreclosure which transferred title to the County shall be ineligible to be the transferee of such property from the County.
- The transferee must not own any real property that: a) has any unremediated citation or violation of the state and local codes and ordinances; b) is tax delinquent; c) was transferred to a local government as a result of tax foreclosure proceedings.
- All tax incentives and financing necessary for the development to be completed must be committed for the development prescribed in the development agreement prior to actual disposition.
- Options to purchase real estate may be available for a specified percentage of the purchase price with a negotiated time frame to be determined by the Land Bank. This fee will be credited to the parcel price at closing. If closing does not occur, the fee is forfeited. All option agreements are subject to all policies and procedures of the Land Bank pertaining to property transfers.
- A precise narrative description of future use of the property is required. The future use must be in-line with local development plans. The development agreement shall apply to stated use.
- The proposed use must be consistent with current zoning requirements or a waiver for non-conforming use is a condition precedent to the transfer.
- Transactions shall be structured in a manner that permits the Land Bank to enforce recorded covenants or conditions upon title pertaining to development and use of the property for a specified period of time. Such restrictions may be enforced, in certain cases, through reliance on subordinate financing held by the Land Bank.
- Any non-local residents or entities with a local agent may acquire Land Bank property only with an enforceable plan to place the property into immediate productive use (meaning the property is to be occupied immediately or with the immediate commencement of some

form of development project that fits the stated mission of the Land Bank). This applies to all real property.

- Any exception to the policies governing disposition shall be taken to the governing body of the Land Bank for approval.
- If code or ordinance violations exist with respect to the property at the time of the transfer, the development or transfer agreements shall specify a maximum period of time for elimination or correction of such violations, with the period of time be established as appropriate to the nature of the violation of the anticipated redevelopment or reuse of the property.
- The Land Bank may consider 'Land Leasing' as a method of disposition in any transactions.
- Preference will be given to local entities for the transfer of properties.
- Land Bank will require potential transferees to submit a plan that includes, at a minimum, the following:
 1. Project Description that includes ultimate use of property
 2. Development Schedule
 3. Investment Plan including purchase price of property and projected development costs
 4. Experience of Transferee in undertaking similar projects
 5. References

Policies Governing Development Agreements

In an effort to ensure that development occurs on property transferred by the Land Bank that is consistent with the agreed upon development, and on a reasonable schedule, the Land Bank will require that each property transfer be subject to a development agreement.

Each development agreement will consists of the following components:

1. Project Description
2. Development Scheduled
3. Financing Structure
4. Enforcement Mechanism

Each development agreement will be drafted by the Land Bank and signed by both the Land Bank and the transferee at the time of transfer.

Side Lot Disposition Program

The Land Bank shall develop a Side Lot Disposition Program that encourages the transfer of lots to the contiguous land owner or other entity that will maintain the property, put it into productive use, and pay axes on it. In determining the requirements for property disposition as

Qualified Properties. Parcels of property eligible for inclusion in the Side Lot Disposition Program shall meet the following minimum criteria:

- The property shall be vacant unimproved real property.
- Properties shall be contiguous to adjacent owner-occupied residential or commercial property owner.
- Land Bank shall sell or grant properties to adjacent land owners as determined by the Board of Directors.
- The Intended use of the lot is to be disclosed prior to the transfer of the property.
- The transfer shall include a deed restriction requiring the use of the property to be consistent with the stated use.
- The transfer shall include, where it is adjacent to the prospective new owner, a deed restriction requiring the side-lot property be combined with their lot.
- Land Bank shall work with County to sell vacant properties directly from the County to adjacent property owners, and Land Bank shall pay all or a portion of the closing costs.

Transferees

- All transferees must hold title on the contiguous property. The transferee must not own any real property (including both the contiguous lot and all other property within the county) that is subject to any un-remediated citation of violation of the state and local codes and ordinances.
- The transferee must not own any real property (including both the contiguous lot and all other property in the county) that is tax delinquent.
- The transferee must not have been the prior owner of any real property that was transferred to the County or to a local government as a result of tax foreclosure proceedings ten years prior to the disposition.

Pricing

- Properties sold as a side lot to an adjacent owner shall be set at a specific price (\$1.00) established by the Land Bank, inclusive of all recordable fees. Title insurance is not included in the sale price.

Additional Requirements

- In the event that multiple adjacent property owners desire to acquire the same side lot, the lot shall be transferred to the property owner who has the largest percentage of common boundary line with the subject side lot.
- In the event that multiple adjacent property owners (with the same percentage of common boundary line) desire to acquire the same side lot, the lot shall either be transferred to the highest bidder for the property, divided and transferred among the interested contiguous property owners, or transferred to the property owner that the Land Bank Board feels is most capable of managing and maintaining the property.

Policies Governing a Homeownership Program

The following additional policies shall apply to properties to be transferred to individual transferees as part of a homeownership program.

- The owner-occupant must complete renovations and move into the structure within a time frame negotiated by the Land Bank.
- The property may not be used solely as rental property (may be owner-occupied with rental).
- For properties transferred for cash consideration below full fair market value of the property, the owner-occupant must reside in the property as his or her primary residence for at least a 5-year period. If the property is sold prior to the 5-year period, the transferee must either: a) sell the property for no more than the purchase price from the Land Bank plus all cost of property improvements; or b) repay the land bank the difference between the purchase price and the initial fair market value.

Policies Governing Approvals of Land Acquisition and Disposition

Factors in Determining Consideration Due Upon Transfers

The following factors shall constitute general guidelines for determination of the consideration to be received by the Land Bank for the transfer of properties. In each and every transfer of real property the Land Bank shall require good and valuable consideration in an amount determined by the Land Bank in its sole discretion. The Land Bank will consider the fair market value of the property in its determination of consideration for each property.

- Parcels of property shall be transferred for consideration in an amount less than the actual costs incurred in acquisition, demolition, maintenance and administrative fees of the lot/building.
- The Land Bank will consider alternative financing options (e.g. Land Contract) as a method of disposition in any transactions.
- Any exception to the policies governing consideration shall be taken to the governing body of the Land Bank for approval.

Land Banking Policies

The Land Bank is willing to receive title to properties from community development corporations and other entities, and hold title to such properties pending future use by the Land Bank, by the transferor of the property, or by other third parties. The receipt by the Land Bank of any and all conveyances of real property shall at all times be solely within the discretion of the Land Bank, and nothing in this policy shall be deemed to require the Land Bank to take title to any properties nor to limit the discretion of the Land Bank in negotiating the terms of its acquisition of any property, whether as donated transfers or otherwise.

All conveyances received by the Land Bank in its land banking capacity must comply with the requirements set forth below in Part A, and will be reviewed and considered by the Land Bank in accordance with the procedures set forth in Part B. If the transfer is approved by the Land Bank, the Land Bank shall hold the subject property, and may use or convey the subject property or any interest in the subject project, subject only to the right of repurchase set forth in Part B.

Following the transfer of any properties to the Land Bank in accordance with this policy, the Land Bank shall have the right, but not the obligation, to maintain, repair, demolish, clean, and grade the subject property and perform any and all other tasks and services with respect to the subject

property as the Land Bank may deem necessary and appropriate in its sole discretion.

A. Requirements for Conveyances to the Land Bank in its Land Banking Capacity

- Property that is intended to be conveyed to the Land Bank and to be held by the Land Bank in its land banking capacity shall be clearly designated as such in the proposal for the transfer, and in the records of the Land Bank.
- No property shall be transferred to the Land Bank pursuant to this land banking policy unless the transferor is either a private nonprofit entity or a governmental entity.
- The subject property must not be occupied by any party or parties as of the date of transfer to the Land Bank.
- The subject property must be located within the Land Bank service area (Chautauqua County).
- The subject property must, as of the date of the transfer to the Land Bank, be free of any and all liens for ad valorem taxes, special assessments, and other liens or encumbrances in favor of local, state or federal government entities.
- The subject property must, as of the date of the transfer to the Land Bank, be free of all outstanding mortgages and security instruments.
- Any exception to the policies governing disposition shall be taken to the governing body of the Land Bank for approval.

B. Right of Repurchase by the Transferor

- The transferor shall have a right to repurchase the subject property from the Land Bank at any time within a timeframe determined by the Land Bank on a case-by-case basis by giving notice to the Land Bank.
- The right of repurchase may be exercised by the transferor upon payment to the Land Bank of the Purchase Price. The Purchase Price shall be an amount equal to (i) all expenditures of the Land Bank (whether made directly by the Land Bank or through payments to a third party contractor) in connection with the subject property incurred subsequent to the date of conveyance to the Land Bank, and (ii) an amount determined by the Land Bank as its average indirect costs, on a per parcel basis, of holding its portfolio of properties.

- The Land Bank shall have the right, at any time within a period designated by the land banking agreement, following the date of the original transfer, to require the transferor to exercise its right of repurchase by giving written notice to the transferor of the requirement that it exercise its right of repurchase and the amount of the Purchase Price. The transferor must exercise its right of repurchase, and close the reconveyance of the property within a time period designated by such notice. Failure of the transferor to exercise and close upon its right of repurchase within such period of time shall result in a termination of all rights of repurchase with respect to the subject property.

Land Bank Issued Financing

Land Bank financing will be a contract between the Land Bank and the buyer of real property in which the Land Bank provides the financing to buy the property for an agreed-upon purchase price and the buyer repays the loan in installments. In this arrangement, the Land Bank retains the legal title to the property, while permitting the buyer to take possession of it for most purposes other than legal ownership. The sale price will be paid in periodic installments, often with a balloon payment at the end to make the time-length of payments shorter than a corresponding fully amortized loan without a final balloon payment. When the full purchase price has been paid, including any interest determined by policy or affordability, the Land Bank will then convey legal title to the property to the buyer. An initial down payment from the buyer to the Land Bank should be required. The legal status of this form of financing may vary from region to region. As well, funding used in the acquisition and redevelopment of subject properties may not allow for Land Bank financed sales.

Installment payments

The installment payments of the purchase price will be similar to mortgage payments in amount and effect. The amount is often determined according to a mortgage amortization schedule. In effect, each installment payment is partially payment of the purchase price and partially payment of interest on the unpaid purchase price. This is similar to mortgage payments which are

part repayment of the principal amount of the mortgage loan and part interest. As the buyer pays off more of the principal of the loan, his (her) equitable title or interest in the property increases. For example, if a buyer pays a \$2,000 down payment and loans \$8,000 for a \$10,000 parcel of land, and pays off in installments another \$4,000 of this loan (not including interest), the buyer has \$6,000 of equity in the land or 60% of the equitable title, but the Land Bank holds legal title to the land as recorded in documentation (deeds) in a government recorder's office until the loan is completely paid off. However, if the buyer defaults on installment payments, the Land Bank may consider the failure to timely pay installments a breach of contract and the land equity may be forfeited to the Land Bank, depending on the contract provisions.

The following policies shall establish the instances when the Land Bank will consider selling its property through alternative financing (e.g. Land Contract) rather than cash sale. All exceptions to this policy shall be decided by governing body of the Land Bank.

- Land Bank financing may be used when the property being sold is as an affordable owner-occupied-single residential structure. The contract terms (down-payment amount, interest rate, amortization schedule and length of contract) will be determined by the governing body of the Land Bank.
- Land Bank financing may be used as a means to enforce a development agreement. The contract shall be based upon consideration equal to the fair market value of the property. Fair market value shall be determined by an appraisal approved by the Land Bank that is no older than 90-days from date of property application. The contract will have, at a minimum, a length equal to or greater than the development schedule sited in the development agreement.
- All terms of the contract may be renegotiated between the Land Bank and the buyer based on approvals from the governing body of the Land Bank.