

CLAYTON COUNTY LAND BANK

**POLICIES AND PROCEDURES
ACQUISITION AND DISPOSITION OF REAL PROPERTY**

AS APPROVED AND ADOPTED BY THE BOARD OF DIRECTORS

ON AUGUST 18, 2022

UPDATED JULY 27, 2022

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Clayton County Land Bank
Administrative Policies and Procedures

These policies and procedures are a consolidation of and codification of all prior policies and procedures of the Clayton County Land Bank (hereinafter “CCLB”) and supersede all such prior policies and procedures.

Section 1. Role as a Public Authority.

- 1.1 Public Authority. The CCLB is a public entity authorized under Georgia law, with all powers granted by O.C.G.A. § 48-4-100 et seq. (hereinafter the “Georgia Land Bank Act”) and created by Land Bank Members¹ including Clayton County and the Cities of Forest Park, Jonesboro, Morrow, Lovejoy, College Park, Riverdale, and Lake City. The CCLB was created pursuant to Resolution 2014-83 of the Clayton County Board of Commissioners dated April 1, 2014, and later and corresponding resolutions of the Cities of Forest Park, Jonesboro, Morrow, Lovejoy, College Park, Riverdale, and Lake City. It is governed by a Board of Directors appointed by the Land Bank Members.
- 1.2 Governing Authority. The core governing documents of the CCLB are the Georgia Land Bank Act, the aforementioned resolutions by the Clayton County Board of Commissioners and the Cities of Forest Park, Jonesboro, Morrow, Lovejoy, College Park, Riverdale, and Lake City, the CCLB By-laws, and those Policies and Procedures approved and adopted by the CCLB Board of Directors now and in the future.
- 1.3 Purposes. The CCLB was established to acquire, hold, and transfer interest in real property located within the boundaries of the Land Bank Members for the following purposes: to foster the public purpose of returning property which is dilapidated, abandoned, foreclosed, or tax delinquent and in a nonrevenue generating, nontax producing status, to an effective utilization status in order to support the creation of market and affordable housing, public space, economic opportunity, and vibrant communities for the citizens of Clayton County, all in ways that are consistent with goals and priorities established by local government partners and other community stakeholders.

Section 2. Priorities for Property Use.

- 2.1 Priorities for Use. In accordance with state and local law, the CCLB may consider any of the following priorities for use of property of the CCLB including a) to make available its properties to the local governments for public use and ownership as determined by the local governments, b) to return the property acquired by the CCLB to tax-generating status while maximizing the value of the property which may include attempts to change the zoning classification of the property in a manner that is consistent with the economic development goals of the parties, c) to support neighborhood revitalization which may include acquisition, demolition, and construction of structures on the subject property that assist the local governments in revitalizing neighborhoods, d) to support the production or rehabilitation of housing, including market rate housing and housing for persons with low or moderate incomes, with such definitions established by the Board of Directors on an annual basis, e) to support conservation, including the preservation and re-use of land for environmental conservation, community gardens, and other greening purposes, and in order to mitigate the potential effects of climate change, and e) other community improvement and economic development purposes.

¹ Land Bank Members are defined in the Georgia CCLB Act and include “the local governments that are parties to the intergovernmental contract or resolution creating a CCLB and the local governments that join a CCLB subsequent to its creation.” O.C.G.A. § 48-4-102(5).

- 2.2 Priorities for Purpose. These uses should be consistent with the following priorities: neighborhood revitalization; return of the property to productive tax-paying status; land assemblage for economic development; long-term “banking” of properties for future strategic uses; and provision of financial resources for operating functions of the CCLB.
- 2.3 Use Consistent with Land Use and Zoning Plans. The use of properties acquired from the CCLB should be consistent with future land use plans and maps as well as consistent with the zoning plans of Clayton County and the Land Bank Members.

Section 3. Priorities for Identity of Transferees.

- 3.1 Priority Transferees. Except where limited by the terms of its acquisition, the first priority for use of real property held by the CCLB shall be for conveyance to local government entities. The second priority use shall be neighborhood nonprofit entities seeking to obtain the land for housing. The third priority use shall be other individuals and entities intending to produce affordable housing. The fourth priority shall be individuals and entities intending to produce market rate housing or commercial spaces in concert with local plans and priorities. The CCLB may also, at its discretion, give priority to: nonprofit institutions such as academic institutions and religious institutions; entities that are a partnership, limited liability corporation, or joint venture comprised of a private nonprofit corporation and a private for-profit entity; and individuals who own and occupy residential property for purposes of a Side Lot Disposition Program. The CCLB reserves full and complete discretion to consider these priorities, and the additional criteria and guidance in these Policies and Procedures in assessing the viability of applications for CCLB parcels, and in ensuring property uses that further the mission of the CCLB and the goals and priorities of the Land Bank Members.
- 3.2 Transferee Qualifications. All applicants seeking to acquire property from the CCLB, or to enter into transaction agreements with the CCLB, will be required to provide as part of the application such information as may be requested by the CCLB, including but not limited to (a) the legal status of the applicant, its organizational and financial structure, and (b) its prior experience in developing and managing real property. Prior or current ownership of properties that became delinquent in ad valorem tax payments and remain delinquent in ad valorem tax payments during an applicant’s ownership, whether sole owner or a member in a corporation, shall disqualify an applicant. Applicants shall remain disqualified until all delinquencies have been satisfied and properties have remained tax current for at least 24 months. Ownership of properties that have any un-remediated citation for violation of federal and local code, ordinances, and regulations shall disqualify an applicant. Applicants shall remain disqualified until all properties have been code compliant for at least 24 months.
- 3.3 Reserved Discretion. The CCLB reserves full and complete discretion to decline applications and proposed transaction agreements from individuals and entities that meet criteria including, but not limited to:
- (a) failure to perform in prior transactions with the CCLB,
 - (b) parties that are barred from transactions with local government entities,
 - (c) parties not able to demonstrate sufficient experience and capacity to perform in accordance with the requirements of the CCLB,
 - (d) applications for properties that have been used by the proposed transferee or a family member of the transferee as his or her personal residence at any time during the twelve (12) months immediately preceding the submission of application (except in rental cases),
 - (e) parties who do not personally reside in or whose principal place of business is not within 50 miles of Clayton County, give or take a few miles as context requires, who seek to purchase

property for non-owner-occupant purposes and cannot demonstrate ownership of similar properties in Clayton County that are code compliant, occupied by bona fide tenants, and managed by local property managers with a demonstrated track record of success, and

- (f) inability to close within 60 days, or such other time period as the board determines is reasonable in a given transaction, of entering into a contract for acquisition of a CCLB parcel.

Section 4. Priorities Concerning Neighborhood and Community Development.

The CCLB 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 CCLB may prioritize 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 a slowly occurring 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.

Section 5. Conveyances to the CCLB.

5.1 Sources of Property Inventory. Sources of real property inventory of the CCLB include, but are not limited to, the following: (a) transfers from local governments, (b) acquisitions by the CCLB at tax sales, (c) donations from private entities, (d) market purchases, (e) conduit transfers contemplating the simultaneous acquisition and disposition of property, and (f) other transactions such as Land banking agreements.

5.2 Policies Governing the Acquisition of Properties. In determining which, if any, properties shall be acquired by the CCLB, the CCLB shall give consideration to the following factors:

- (a) Proposals and requests by governmental entities that identify specific properties for ultimate use and redevelopment.
- (b) Proposals and requests by nonprofit corporations that identify specific properties for ultimate acquisition and redevelopment.
- (c) Residential properties that are occupied or are available for immediate occupancy without need for substantial rehabilitation.
- (d) Improved properties that are the subject of an existing order for demolition of the improvements and properties that meet the criteria for demolition of improvements.
- (e) Vacant properties that could be placed into a Side Lot Disposition Program.
- (f) Properties that would be in support of strategic neighborhood stabilization and revitalization plans.
- (g) Properties that would form a part of a land assemblage development plan.
- (h) Properties that will generate operating resources for the functions of the CCLB.

5.3 Acquisitions through Delinquent Tax Enforcement Proceedings. At the request of the CCLB, the Tax Commissioner may combine properties from one or more of the foregoing categories in structuring the terms and conditions of the tax foreclosure procedures, and the CCLB may acquire any such properties prior to sales, at such sales, or subsequent to sales as authorized by state and local law. In determining the nature and extent of the properties to be acquired the Tax Commissioner shall also give consideration to the underlying values of the subject properties, the financial resources available or acquisitions, the operational capacity of the CCLB, and the projected length of time for transfer of such properties to the ultimate transferees.

- 5.4 Transaction Agreements. In all cases involving conduit transfers and Land Banking agreements a transaction agreement must be approved in advance and executed by the CCLB and the grantor of the property. 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. In the case of a Land Banking relationship such a transaction agreement 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 CCLB to be in the best interest of the CCLB 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.
- 5.5 Title Assurance. In all acquisitions of property by the CCLB through transaction agreements the CCLB 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 CCLB subject to such outstanding title exceptions as are acceptable to the CCLB in its sole discretion.
- 5.6 Environmental Concerns. The CCLB reserves full and complete discretion to require in all transaction agreements that satisfactory evidence be provided to the CCLB that the property is not subject to environmental contamination as defined by federal or state law.

Section 6. Conveyances from the CCLB.

- 6.1 Consideration Generally. The form of consideration to be provided by the transferee to the CCLB is in the sole discretion of the CCLB 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. In each and every transfer of real property, the CCLB shall require good and valuable consideration in an amount not more than the fair market value of the property, as determined by the CCLB, or the Property Costs. "Property Costs" shall mean the aggregate costs and expenses of the CCLB attributable to the specific property in question including, but not limited to, costs of acquisition, maintenance, repair, demolition, marketing of the property, and indirect costs of the operations of the CCLB allocable to the property.
- (a) Unless otherwise determined on a case-by-case basis, for parcels with Clayton County Assessed Value of \$30,000 or higher, minimum consideration for acquisition of CCLB properties by individuals and for-profit entities shall be comprised of the cry-out amount on the tax deed associated with the property, or 75% of the most recent Clayton County Assessor's assessed value, whichever is greater. The CCLB will consider lesser minimum consideration for proposed acquisitions by governmental entities, not-for-profit entities, and individuals seeking side-lots in accordance with the Side-Lot Disposition Program (see Section 10.1).
- (b) Unless otherwise determined on a case-by-case basis, for parcels with Clayton County Assessed Value of less than \$30,000, minimum consideration for acquisition of CCLB properties by individuals and for-profit entities shall be comprised of the cry-out amount on the tax deed associated with the property, or 50% of the most recent Clayton County Assessor's assessed value, whichever is greater. The CCLB will consider lesser minimum consideration for proposed acquisitions by governmental entities, not-for-profit entities, and individuals seeking side-lots in accordance with the Side-Lot Disposition Program (see Section 10.1).
- (c) Consideration for side-lot transfers shall be in accordance with the side-lot disposition process contained in Section 10 below and extinguishment of delinquent taxes shall be

considered on a case-by-case basis where such extinguishment is in accordance with the purpose of the CCLB.

- (d) Consideration for transfers to not-for-profit entities shall be in accordance with Section 7 below and extinguishment of delinquent taxes shall be considered on a case-by-case basis where such extinguishment is in accordance with the purpose of the CCLB.
- (e) Consideration for transfers to for-profit entities shall be in accordance with Section 8 below. Minimum consideration from individuals (non-side-lot) or for-profit entities for CCLB property must exceed delinquent taxes owed on the parcel or parcels unless there are extenuating circumstances on a case-by-case basis as determined by the CCLB Board.
- (f) Unless otherwise determined by the Board on a case-by-case basis, each and every CCLB property disposition to non-governmental entities shall be subject to a \$500.00 Land Bank Administration Fee per parcel collected at closing.

6.2 Covenants, Conditions and Restrictions. All conveyances by the CCLB to third parties shall include such covenants, conditions and restrictions as the CCLB 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 CCLB. Such requirements may take the form of a deed creating a defeasible fee, recorded restrictive covenants, subordinate financing being held by the CCLB, contractual development agreements, or any combination thereof.

6.2 Options. The Board of the CCLB will consider options on property held by the CCLB on a case-by-case basis. The Board will determine the requirements applicable to option contracts by evaluating the particular details of each property. All option agreements are subject to all policies and procedures of the CCLB pertaining to property transfers.

6.3 Deed Without Warranty. Conveyances from the CCLB to third parties shall typically be by Quitclaim Deed, unless otherwise determined by the Board of Directors on a case-by-case basis or pursuant to pilot or other programs developed for particular circumstances. In circumstances where the CCLB undertakes title clearance on behalf of a successful applicant/third party, the CCLB may convey via limited warranty deed.

Section 7. Collaboration with Not-for-Profit Entities.

7.1 CCLB Discretion. Some properties may present unusual or extenuating circumstances to a Not-For-Profit Entity due to lack of funding for housing production, other development, or related costs. The CCLB reserves the right to evaluate and consider these properties case-by-case.

7.2 Transactions with Not-for-Profit Entities. The CCLB is willing to enter into conduit transfers with not-for-profit corporate entities as outlined in this section. These not-for-profit corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the CCLB for waiver of taxes, and “buy back” these properties for use in the manner determined by the Board of the CCLB.

- (a) The CCLB will consider extinguishment of non-delinquent taxes which were the responsibility of the transferring Not-for-Profit Entity if such extinguishment is in accordance with the purpose of the CCLB.

7.3 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 ad valorem taxes (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 lot cost (i.e., the cost that will permit development) before the CCLB may consider the waiver of taxes in total or in part.

Section 8. Collaboration with For-Profit Entities.

8.1 CCLB Discretion. Some properties may present unusual or extenuating circumstances to a For-Profit Entity due to lack of funding for housing production, other development, or related costs. The CCLB reserves the right to evaluate and consider these properties case-by-case.

8.2 Transactions with For-Profit Entities. The CCLB is willing to enter into conduit transfers with for-profit corporate entities as outlined in this section. The corporate entities would secure donations of or purchase tax delinquent properties from owners, transfer these properties to the CCLB for waiver of taxes, and “buy back” these properties for use in property development.

8.3 Eligibility. Eligibility for this option will be based on certain criteria. These shall include the geographical location of the property. With assistance and guidance from the CCLB where appropriate, the for-profit entity must identify and consult with any active non-profit entities that may have an interest in developing the property. If an interest exists, the non-profit and for-profit may forge an agreement for joint development.

8.4 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, etc.);
- (c) The development costs impacting the final sale price; and
- (d) The total amount of delinquent ad valorem taxes (County, City, School District), special assessments, and other liens and encumbrances against the property and the length of delinquency for each.

8.5 Maximum Costs. The total of these costs should exceed the maximum allowable lot cost (i.e., the cost that will permit the production of the development) before the CCLB may consider the waiver of back taxes in total or in part.

Section 9. Property for Community Improvements.

9.1 Community Improvement Property. The CCLB is willing to accept donations of property to be transferred into a non-revenue-generating, non-tax-producing use that is for community improvement or other public purposes. Under the provisions of the governing documents of the CCLB, the CCLB is permitted to assemble tracts or parcels of property for community improvement or other public purposes.

9.2 Eligibility. Properties can be conveyed to the CCLB for waiver of delinquent taxes and then reconveyed by the CCLB to be utilized for community improvement purposes including but not limited to community gardens, parking for non-profit functions such as a school or 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.

9.3 Transferee. The application must identify and be signed by the ultimate transferee of the property from the CCLB. The transferee should be a governmental entity, a not-for-profit property entity, or in rare cases a for-profit entity that is capable of holding and maintaining the property in the anticipated conditions and for the anticipated purposes.

9.4 Restrictive Covenants. The CCLB, in the conveyance of the property to a transferee, will impose covenants, conditions and restrictions as necessary to ensure that the property is used for community improvement or other public purposes.

Section 10. Side Lot Disposition Program

10.1 Side Lot Transfers. Individual parcels of property may be acquired by the Land Bank Members or the CCLB, 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 override by higher priorities as established by the CCLB.

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

- (a) The property shall be vacant unimproved real property;
- (b) The property shall be physically contiguous to adjacent owner-occupied residential property, with not less than a 50% common boundary line at the side;
- (c) The property shall consist of no more than one lot capable of development. Initial priority shall be given to the disposition of properties of insufficient size to permit independent development; and
- (d) Unless otherwise determined by the Board of Directors in a given transaction, no more than one lot may be transferred per contiguous lot.

10.3 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 County) that is subject to any unremediated citation of violation 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 County) that is tax delinquent.
- (d) The transferee must not have been the prior owner of any real property in the County that was transferred to a local government as a result of tax foreclosure proceedings unless the CCLB approves the anticipated disposition prior to the effective date of completion of such tax foreclosure proceedings.

10.4 Pricing.

- (a) Parcels of property that are not capable of independent development may be transferred for nominal consideration.
- (b) Parcels of property that are capable of independent development shall be transferred for consideration in an amount not less than Fair Market Value or Property Costs, in accordance with section 6.1 of these Policies.

10.5 Additional Requirements.

- (a) As a condition of transfer of a lot the transferee must 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.
- (b) In the event that multiple adjacent property owners desire to acquire the same side lot, the lot shall either be transferred to the highest bidder for the property, or divided and transferred among the interested contiguous property owners.

Section 11. Owner Occupant Policy. This section is reserved for future consideration by the Board of the CCLB.

Section 12. Approval of Property Transfers.

12.1 Transfers Requiring Board of Directors Approval. The Board of Directors must approve all property transfers in advance.

12.2 Review of Approval Authority. The CCLB Board of Directors anticipates that this section delineating which property transfers require staff approval and which property transfers require Board of Directors approval will be reviewed and revised within two years from the date of the first CCLB property transfer undertaken in accordance with these policies and procedures.

Section 13. Interpretations of Policies and Procedures & Revisions.

13.1 Interpretations. The CCLB's executive team shall have the sole authority to interpret these policies and procedures, and 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 the CCLB's Board of Directors. The CCLB will maintain a record of all policies and procedures it has adopted and the date revised policies were adopted.