

## Land Transactions

<b>Objective:</b>	To define procedures to follow regarding land transactions.	<b>Policy/Procedure Number:</b>	09-07
<b>Reference:</b> <i>(All Applicable Federal, State and Local Laws)</i>	County Law Section 215, Local Law No. 3 of 1981.	<b>Effective Date:</b>	<i>October 6, 1998</i>
<b>Legislative Policy Statement:</b>	It is in the best interest of the residents of Tompkins County to ensure that the County Legislature has knowledge of significant natural, cultural, and historical resources on lands in order to make informed decisions regarding acquisition, sale, or lease of land. It is also in the best interest of Tompkins County to protect itself from environmental liability associated with properties by determining the potential for such liability prior to land acquisitions. Further, it is in the best interest of the residents of Tompkins County for the Legislature generally to seek to maximize the amount of money that it realizes from the sale or lease of real property. However, there may be times when the Legislature, for reasons it deems good and sufficient, wishes to sell or lease property at less than fair market value.	<b>Responsible Department:</b>	<i>County Administration</i>
		<b>Modified Date (s):</b>	<i>November 11, 2011</i>
		<b>Resolution No.:</b>	<i>2011-189; 1995-317</i>
		<b>Next Scheduled Review:</b>	<i>September 2016</i>
<b>General Information:</b>	<ul style="list-style-type: none"> <li>• The County Administrator shall be responsible for coordinating the implementation of this policy except in the case of tax foreclosures, which are managed and coordinated by the Finance Director.</li> <li>• All County Departments must notify the County Administrator as soon as possible when considering and before deciding on acquisition, disposition, or lease of property.</li> <li>• All actions governed by this Land Transaction Policy, not otherwise assigned to a Legislative committee, must be referred to the Legislative standing (program) committee responsible for government operations.</li> <li>• When the acquisition or disposition of property requires the preparation of documents related to compliance with the State Environmental Quality Review Act (SEQRA), the Department originating the action shall be responsible for the initial preparation of the documents.</li> <li>• The SEQRA documents will then be reviewed by the Planning Department for technical completeness. The County Attorney must then be responsible for ensuring compliance with the procedural requirements of SEQRA. All SEQRA documents must be reviewed by the appropriate legislative standing (program) committee of the Legislature before going to the full Legislature for action.</li> <li>• The County Finance Director is authorized to pay for the hiring of outside organizations (for example, trades people and consultants), and the reimbursement of County departments to conduct investigations, or other work related to the acquisition, sale or lease of property. This work must be funded with the proceeds of the sale or, in the absence of a sale, the general fund of Tompkins County.</li> </ul>		

## I. Definitions:

**Auction**—An annual public sale of tax acquired properties in order to recover unpaid taxes. The Director of Finance arranges this sale, if deemed practical.

**Delinquent Taxes Installment Agreement**—A payment plan that amortizes delinquent taxes over a 24- month period. The plan requires a down payment of 25% of unpaid taxes, and then the balance paid in monthly installments at an interest rate of 12%. The plan requires all future taxes to be maintained on a current basis.

**Owner Occupied**—Residential or agricultural class real property on which the owner of record resides on the property.

**SEQRA**—The New York State Environmental Quality Review Act, which intends that the protection and enhancement of the environment and of human and community resources be given appropriate weight with social and economic considerations in determining public policy, and that those factors be considered together in reaching decisions on proposed activities. It places an obligation that every County legislative action be categorized as to SEQRA type and reviewed accordingly.

**Tax Foreclosure**—A legal proceeding to regain property due to unpaid taxes. New York State (NYS) Real Property Tax Law requires the Director of Finance to enforce unpaid property taxes. Residential and agricultural class of properties are subject to acquisition by the county via tax foreclosure after 36 months; commercial and undeveloped land class of property after 24 months.

## II. Policy:

## III. Procedure:

### A. County-Owned Lands

*Inventories.* The County Administrator must maintain a complete list of County-owned lands. The list must contain pertinent historic and current information on method of acquisition, property location, property size, natural resources, cultural resources, historic resources, buildings and other structures, any available information regarding zoning compliance based on local and regional land use plans, and a description of the strategic value of the land to Tompkins County.

*Reports.* Regular reports on County-owned lands must be prepared. At least once every five years, the Planning Department, in cooperation with the County Administrator and the Public Works Department, will prepare a report on the strategic value of all land holdings to the appropriate legislative standing (program) committee. This report shall make recommendations for changes in County land holdings or leases. In addition, interim updates, including updates on properties withheld from prior auction, will be provided annually. In the Spring of each year and approximately 60 days before date of auction, the County Administrator must report to the appropriate committee of the Legislature the status of all lands previously withheld from the auction for the purpose of further investigation.

### B. Acquisition of Property

The County Administrator must ensure that the Assessment Department estimates the fair market value of the property at its highest and best use. The Assessment Department must advise the County Administrator if a full appraisal of the property should be contracted out.

The following steps will be followed:

**1. Before the County takes title to a property.**

*Taxable Status.* The Department of Assessment should be notified of a pending acquisition so that a preliminary determination of taxable status and any possible tax liability can be issued.

*Risk Investigation.* The County Administrator must ensure an investigation of the property is done to determine whether there is a significant risk that the County might be exposed to a liability if it should acquire the parcel. The investigation shall include, but not necessarily be limited to, a visit to the site and a determination of what, if any, further investigation is appropriate.

*County Attorney/County Administrator Report.* Upon completion of said investigation the County Attorney and the County Administrator must determine a course of action, which may include further investigation or, in appropriate cases, a decision on whether to recommend to the appropriate committee of the Legislature that the County not take title to the property.

**2. After the County takes title to a property.**

*Planning Department Report.* After the County takes title to a property, the County Administrator must ensure that the Planning Department determines the existence and significance of natural, cultural, and/or historic resources on the property and identifies significant concerns regarding zoning and local/regional strategic land use plans. The Planning Department shall request the assistance of advisory boards and community organizations as appropriate. The Planning Department must prepare a report that describes the findings of its research and recommends a course of action to the County Administrator.

**C. Disposition of Property**

Prior to the County voluntarily selling or leasing any real property the following steps will be followed:

1. *Planning Department Report.* The County Administrator must ensure that the Planning Department update its determination regarding the existence and significance of natural, cultural, and/or historic resources on the property and identify significant concerns regarding zoning and local/regional strategic land use plans. The Planning Department shall request the assistance of advisory boards and community organizations as appropriate. The Planning Department must prepare a report that describes the findings of its research and recommends a course of action.
2. *Tompkins County Area Development (TCAD) Report.* The County Administrator shall request that TCAD prepare a report on the economic impact of the proposed transaction.
3. *Assessment Department Report.* When the County is in the early preliminary stages of disposing of a piece of property, the Department of Assessment must be notified of such discussion and will advise of the tax liability to the County of the pending disposition of property. The County Administrator must ensure that the Assessment Department estimates the fair market value of the property at its highest and best use. The Assessment Department must advise the County Administrator if a full appraisal of the property should be contracted out.

4. *Finance Department Report.* The County Administrator shall request the Director of Finance to prepare a report on the fiscal impacts of the proposed transaction.
5. *County Administrator Recommendation.* The County Administrator must review and compile all information provided by County Departments on a particular land transaction. The County Administrator shall make a recommendation on a course of action to the appropriate committee of the Legislature.
6. *Significant Resources Identified.* It is the intention of the Legislature, when significant natural, cultural, or historic resources are identified, to allow resource stewardship organizations an opportunity to review and investigate the property to evaluate both the resource(s) and potential methods of protecting the resource.

If a significant resource is located on the property, the Legislature shall consider withholding the property from sale in order to allow organizations to perform legal, environmental, cultural, historic, and other reviews and investigations of the property. If an organization expresses an interest in taking title to the property, then the County may negotiate the sale of the land so that the significant resource shall be protected for the public good.

The County may choose to hold a conservation easement on a property. If a land conservation organization expresses interest in holding a conservation easement on the property, the County may provide for or sell a conservation easement on the property, and auction or otherwise sell or lease the property with the new easement. The County may then contract with the land conservation organization to inspect the land periodically or otherwise provide for County staff to perform such inspection to ensure that the easement is being adhered to. The Legislature must approve any such contract.

7. *Municipal Review* It is the intention of the Legislature to notify municipalities of property scheduled for foreclosure within their jurisdiction in order to allow that municipality an opportunity to review and investigate the property. If a municipality requests, the Legislature must consider withholding the property from sale in order to allow that municipality to perform reviews and investigations of the property. If the municipality expresses an interest in taking title to the property, then the County may negotiate the sale of the land so that the public good is served.
8. *Method of Disposition.* The County Administrator shall determine which properties to sell by auction, which through a real estate broker, which through sealed bids, and which through other methods.

The County Finance Director, in consultation with the County Administrator, shall set minimum bids or upset prices for disposal of any property.
9. *Public Notice.* Prior to public auction, the County Finance Director must publicize the sale widely and make concerted efforts to notify appropriate local groups of specific lands that may be of interest to them.
  - Sale to the Highest Bidder—Properties sold at auction, through sealed bids or through a real estate broker, must be sold to the person making the highest offer so long as, in the judgment of the County Administrator, the amount received by the County is reasonable in relationship to the market value of the property. All sales are contingent upon approval of the Legislature.
  - Sale at Less Than Market Value—Whenever the Legislature decides to negotiate a sale for less than the fair market value for real property, the resolution conveying the property shall clearly state the public purpose served by conveying

for this price and it shall include the estimate of the fair market value of the property at its highest and best use as prepared by the Assessment Department (see section C, item 3 above).

- All sales of property shall, when required, comply with County Law Section 215, Local Law No. 3 of 1981, and all other applicable provisions of law.

10. *Internal Notification.* The Department of Assessment will be notified of any purchase, sale or lease of property by the County.

#### **D. Properties Withheld from Auction**

##### **Properties may be withheld from auction for several reasons:**

- The County Attorney and the County Administrator, following extensive investigation, may recommend to the appropriate committee of the Legislature that the County not take title to the property.
- The Legislature shall consider withholding the property from sale if a significant resource is located on the property, (see section C, item 6 above).
- The property subject to foreclosure is owner-occupied. Whenever residential owner-occupied property is included in a foreclosure petition, the County Finance Director must make every reasonable effort to make an arrangement with the owner to repay back taxes, penalties, interest, expenses, and fees. The property must be withheld from foreclosure when a written Delinquent Taxes Installment Agreement has been signed by the owner or legal representative that commits to a date certain when all back taxes, penalties, interest, expenses, and administrative fees will be paid. These must include payments equal to the full amount of taxes and penalties outstanding.

#### **E. Expedited Action Required**

When, in the opinion of the County Administrator, circumstances require swift action precluding the normal review process, the County Administrator, with the concurrence of the Chair of the Legislature, is authorized to ensure speedy SEQRA compliance and to bring resolutions directly to the Legislature by requesting the chair of the appropriate legislative committee to place on a Legislature agenda a resolution authorizing the County to purchase, lease or convey real property.

#### **F. Leasing Property**

Whenever the County leases out property, a copy of the lease must be given to the Department of Assessment. A copy of the lease should also be provided when the County is the tenant.