



# ADMINISTRATIVE POLICY

<b>SECTION: 700 – Facility and Property Management</b>	<b>POLICY#: 703</b>
<b>TITLE: Real Property Management</b>	<b>R &amp; O #: 21-102</b>
	<b>IMPLEMENTED BY PROCEDURE #: 703A</b>
<b>SPONSORING DEPT/DIV: Support Services/Facilities and Parks Services Division</b>	
<b>ADOPTED: 09/28/2021</b>	<b>REVIEWED:</b>

**PURPOSE:** The purpose of the Real Property Management Policy is to empower the Real Property Manager to efficiently and effectively maintain a complete and accurate inventory of County-owned real property and to ensure the disposition of surplus property as expeditiously as possible through a fair and equitable manner following the rules and regulations as outlined in Oregon Revised Statutes (ORS) 271 and 275. To the extent the ORS conflict with this Policy, the ORS shall apply.

**AUTHORITY:** ORS 271 and ORS 275, incorporating Minute Order # 91-425, Minute Order # 94-510, Minute Order # 96-15, and Minute Order # 96-349.

## **DEFINITIONS:**

“Real Property Manager” is a County Employee with Staff under the Facilities and Park Services Division in the Support Services Department responsible to implement this policy.

“Real Property” means physical property owned by the County.

“Surplus Property” means real property no longer needed for County use.

“Sliver Property” means surplus property that is undevelopable since it is unsuited for the construction or placement of a dwelling under current zoning ordinances and building codes and has a real market value (RMV) of less than \$15,000.

“Tax Foreclosed Property” means real property that has gone through the tax foreclosure process of non-payment of property taxes and is deeded to the County under ORS 312.010-312.990.

“MSTIP Property” means real property purchased with the Major Streets Transportation Improvement Program (MSTIP) fund for road improvement projects.

“Road Fund Property” means real property purchased with the Road Fund for road improvement and other transportation projects, i.e., commuter rail.

**GENERAL POLICY:** This policy establishes criteria for (1) inventorying real property, (2) managing and maintaining real property and (3) disposition of real property and distribution of proceeds.

**POLICY GUIDELINES:**

1. Responsibilities: The Real Property Manager shall be responsible for developing procedures to implement this policy.
2. Exceptions: Exceptions may only be granted by the Washington County Board of County Commissioners unless such authority has been delegated to the County Administrator.
3. Implementation: Elected officials and department directors are expected to be knowledgeable of, and shall be responsible for, implementing this policy within their respective departments. Observance of this policy is mandatory for all County employees and violation may result in disciplinary action (up to and including termination).
4. Periodic Review: This policy shall be reviewed at least every three years or more often if needed and updated as necessary.

**ROLES & RESPONSIBILITIES**

Board of County Commissioners- Approves the list of surplus property and the minimum price for each property. Holds public hearings, takes public comment, and authorizes the sale, exchange, or transfer of County property or interests in County property.

Support Services Director- Responsible for the Facilities and Park Services Division including the Real Property program. Has the authority to approve recommendations to the Board of County Commissioners for the sale, exchange, or transfer of surplus property.

Facilities and Parks Services Division Manager- Reviews status for each surplus property and recommends disposition to Support Services Director. Executes Permits of Entry granting temporary access for a specific purpose and timeframe on County-owned property.

Real Property Manager- Inventories all County real property. Evaluates status of each surplus property and recommends to Facilities and Parks Services Division Manager the sale, exchange, or transfer of surplus property. Determines the disposition method to be used for each surplus property based on the applicable ORS. The guidelines set in the Real Property Procedures will be followed for each disposition method of surplus property.

### **INVENTORY AND STATUS ASSIGNMENT OF COUNTY-OWNED REAL PROPERTY**

Real Property Manager will inventory and identify all real property owned by the County and appropriately assign a status for each parcel; status categories include: Disposition, Evaluate, Further Research Required, Hold, and In Use by County. The Real Property Manager will make a recommendation for status and method of disposition.

### **SURPLUS PROPERTY**

Real Property acquired by the County in any manner not needed for County use shall be declared surplus, except as otherwise provided by ORS 271 and 275 or deed restriction. Surplus County real property shall be transferred, exchanged, or sold according to the terms of this policy.

### **METHODS OF ACQUISITION**

The County acquires real property through several methods including property tax foreclosure, Major Streets Transportation Improvement Program (MSTIP), Road Fund, County Assets, or other, as described further below.

#### **1. Tax Foreclosed Property**

Consists of real property received through the property tax foreclosure process for nonpayment of real property taxes. Once deeded to the County, the previous owner has no redemptive right to the property. The previous owner may have the opportunity to repurchase the property under ORS 275.180.

#### **Disposition Options:**

Dedication to Right of Way  
Transfer, Sale, or Lease to other governments and nonprofits  
Exchange  
Public Auction

Private Sale

Distribution of Sale Proceeds:

Proceeds of the sale of tax foreclosed properties are first distributed to the Facilities and Park Services Division to cover any carrying costs, including maintenance and management of the property, incurred by the County. Remaining proceeds shall be distributed as provided in ORS 275.275.

**2. MSTIP Property**

When Major Streets Transportation Improvement Program (MSTIP) property is acquired the property may contain more than what will ultimately be dedicated to Right of Way. At the completion of the project, the excess property is added to the County's real property inventory. If the excess property is deemed surplus it will be dispositioned following the applicable procedures.

Disposition Options:

- Dedication to Right of Way
- Transfer, Sale, or Lease to other governments and nonprofits
- Exchange
- Public Auction
- Private Sale

Distribution of Sale Proceeds:

Proceeds from the sale of the MSTIP property is first distributed to the Facilities and Park Services Division to cover any carrying costs, including maintenance and management of the property, incurred by the County. Remaining proceeds are returned to the MSTIP fund.

**3. Road Fund Property**

When Road Fund property is acquired the property may contain more than what will ultimately be dedicated to Right of Way. At the completion of the project, the excess property is added to the County's real property inventory. If the excess property is deemed surplus, it will be dispositioned following the applicable procedures.

Disposition Options:

- Dedication to Right of Way
- Transfer, Sale, or Lease to other governments and nonprofits
- Exchange

Public Auction  
Private Sale

Distribution of Sale Proceeds:

Proceeds from the sale of the Road Fund property is first distributed to the Facilities and Park Services Division to cover any carrying costs, including maintenance and management of the property, incurred by the County. Remaining proceeds are returned to the Road Fund.

**4. County Assets**

Consists mostly of County-occupied buildings. Most of these properties have been purchased and will remain in the County's inventory.

Disposition Options:

Transfer, Sale, or Lease to other governments and nonprofits  
Exchange  
Public Auction  
Private Sale

Distribution of Sale Proceeds:

Proceeds from the sale of any County buildings are applied to the County's General Fund or to the Debt Service Fund, if the building is still incurring debt.

**5. Other Property**

Consists of real property identified as park/open space and timber. Most of these properties have been purchased and will remain in the County's inventory.

Disposition Options:

Transfer, Sale, or Lease to other governments and nonprofits  
Exchange  
Public Auction  
Private Sale

Distribution of Sale Proceeds:

Proceeds from the sale of any park/open space or timber property shall be applied to the Park and Open Space Opportunity Fund.

## **METHODS OF DISPOSITION OF SURPLUS PROPERTIES**

### **1. Repurchase of Tax Foreclosed Property**

Repurchase of tax-foreclosed property by the prior record owner/contract owner\* under ORS 275.180 shall be allowed only when the request for conveyance is received within one calendar year from the date of final foreclosure action, upon payment of all taxes, interest, penalties, and administrative costs, and when evidence is presented that one of the extenuating circumstances listed below is present. The prior owner must provide sufficient evidence demonstrating the inability to pay taxes during the entire delinquency and foreclosure time frame. The extenuating circumstances that may support the repurchase by the prior record owner/contract owner are as follows:

- 1.1 Mental illness or physical incapacitation of the last record/contract owner where no one is acting guardian or has been given a power of attorney. Documentation of the illness as well as proof that taxes will be paid in the future must be verified.
- 1.2 Last record/contract owner was in military service to their country and had no living relative or guardian looking after affairs.
- 1.3 Last record/contract owner was serving a prison or jail term and had no living relative or guardian to take care of affairs.
- 1.4 Parcel foreclosed upon is (or may be) contaminated and clean-up of the parcel may cost the County more than can be recovered through auction. Last record or contract owner will be required to have property clean by a certain date and show certificate from Department of Environmental Quality or property will revert to County.
- 1.5 Other extreme hardship that occurred beyond the control of the last record/contract owner. One or more of the following factors may be reviewed in deciding if the property may be reconveyed:
  - 1.5.1 Did the owner have other assets that could have been liquidated to pay the property taxes (including penalties and interest accrued)?
  - 1.5.2 Was the non-payment of taxes truly uncontrollable and not the result of a discretionary decision of the owner?
  - 1.5.3 What was the property history with respect to complying with County ordinances and land use and health regulations?
  - 1.5.4 Has the former owner indicated that they will make timely property tax payments in the future?

\*The term "record/contract owner" is construed in the singular or plural. If there was joint ownership in the property, more than one person may have to meet the above criteria. The

purpose of this criterion is to determine whether a hardship and ultimate foreclosure was beyond the control of the owner(s).

## **2. Transfer to Government Agencies**

ORS 271.330 authorizes the transfer of real property to another governmental body providing such property shall be used for a public purpose for a minimum of 20 years. These transfers for a public purpose may include transfer without consideration of property held by counties as a result of tax foreclosure. A governmental body, as defined ORS 271.005(2) may request the removal of real property from the proposed public auction for tax foreclosed property or may request transfer of real property not listed for sale.

In evaluating whether to approve a request for transfer, the foremost consideration shall be whether the use proposed by the requesting agency is to benefit the public.

2.1 The following information may be included in all requests for transfer:

- 2.1.1 A description of the real property requested; and
- 2.1.2 An explanation of how acquisition of the real property would help to further a comprehensive, strategic, or operational agency plan; and
- 2.1.3 A statement of the ability to pay a nominal consideration for the real property, with confirmation that the funds necessary to do so are available to the agency from a source named in the request. (When the real property was obtained by the County through tax foreclosure, the nominal consideration will be equal to the amount of taxes which were owed at the time of foreclosure deed and other costs incurred on the property). If not able to pay, describe how public interest will be enhanced with this transfer.

2.2 The following criteria and direction will be used in the decision to transfer real property to another governmental agency:

- 2.2.1 The interested public agency should have a reasonable expectation that the intended public use will come to fruition. This includes appropriate funding.
- 2.2.2 The proposed public use or public project should be a near term use (0 to 3 years) with little speculation. If the proposed timeline exceeds the near term, other mitigating factors must be presented to help ensure the proposed project will take place.
- 2.2.3 County guidance provides direction for ultimate disposition.
- 2.2.4 Financial reimbursement to the County must be consistent with federal, state, or local laws. County may seek some other form of reimbursement directly or indirectly.

- 2.2.5 The requesting jurisdiction will be responsible to ensure the property meets the specific land use codes for the proposed use of the parcel. Real Property staff, with assistance from the Department of Land Use and Transportation or other agencies, will only generally review a proposed use against the code or other relevant public plan. All potential public use(s), including uses proposed by the county, cities, or special districts, will be held to the same standards for development as any private organization.
- 2.2.6 The County will not be in the land development business.

2.3 The transfer of real property to a public agency must be designed to minimize liability or risk to the County. As a result, certain additional restrictions may apply before transferring real property to another public agency.

- 2.3.1 If the transfer of the real property to another jurisdiction will be used for the creation of open space, parks or natural areas for perpetual public use, the instrument conveying the real property shall include a restriction on the use of the property that limits the uses of the property to these uses. The instrument conveying the property shall also contain a provision for the reversion of the property to the County if the property is not used in conformance with the restriction.
- 2.3.2 If there are two or more jurisdictions competing for the transfer of the same parcel, then the use that provides the greatest public benefit will generally receive preference.

2.4 If the original conditions have changed to the point that an agency now wishes to dispose of the property (that it had originally received from the County), the County must give prior approval.

2.5 The County shall prioritize giving other public bodies an opportunity to utilize any properties the County may receive through the tax foreclosure process. These types of transactions will be considered on a case-by-case basis contingent on competing needs and highest public use.

### **3. Relinquishment to Nonprofit Community-Based Organizations**

Pursuant to ORS 271.330(2), the County is granted express power to relinquish the title to any of its properties, not needed for public use or where the public interest may be furthered, to a qualifying community-based and local non-profit organization specializing in low income and/or affordable housing, social services, and childcare services.

3.1 The Department of Housing Services will collaborate with Real Property staff to review proposals from qualifying community-based, nonprofit organizations seeking to acquire residentially zoned surplus property for affordable housing. The below criteria will ensure that any proposed transfer to community-based non-profit organizations for affordable housing purposes is consistent with County guidance, County Housing Policies, and zoning requirements. The review will assure that the following criteria are met:

- 3.1.1 The proposed use for the property is consistent with County guidance and the Housing and Community Development Plan, in addition to applicable planning and zoning requirements; and
- 3.1.2 The proposed housing will be occupied by persons meeting minimum affordability criteria concerning income level(s) to be served according to family size, pursuant to the current “Income Limits for Portland-Vancouver, OR-WA PMSA,” published by the U.S. Department of Housing and Urban Development; and
- 3.1.3 The proposed housing will include a commitment by the nonprofit community organization to guarantee that the housing produced will remain affordable for the life of the structure(s), including deed restriction or reversionary clause, unless otherwise approved by the County; and
- 3.1.4 The prospective purchaser of real property for low-income housing purposes will provide appropriate community and neighborhood information regarding the proposed project prior to transfer of title.

#### **4. Public Auction**

Any category of real property acquired by the County and deemed surplus may be dispositioned by public auction pursuant to ORS 275.110 - ORS 275.160. The Board of County Commissioners will approve the list of parcels to be sold at auction along with the minimum price for each parcel. The Department of Assessment and Taxation or a private certified appraiser shall determine the real market value of tax foreclosed parcels. The minimum price of each tax foreclosed parcel will be no less than 70% of the Department of Assessment & Taxation’s real market value. The minimum price for all other parcels that were not acquired through tax foreclosure will be set by the Real Property staff.

The Real Property staff will schedule and follow the procedures for a Public Auction to disposition the approved list of parcels.

#### **5. Private Sale**

Per ORS 275.200 and ORS 275.225, “Sliver Properties” and properties that did not sell at public auction are eligible to be sold by private sale, or any other method allowed by ORS.

### 5.1 Sliver Properties

- 5.1.1 Properties that are unsuited for the construction or placement of a dwelling under current zoning ordinances and building codes; and
- 5.1.2 Properties that have been verified through Assessment & Taxation to have a real market value of less than \$15,000.

### 5.2 Properties that did not sell at public auction

- 5.2.1 Real Property that has been offered for sale at public auction but did not receive an offer for the minimum bid established can be either:
  - 5.2.1.1 Kept in the County inventory until the next public auction; or
  - 5.2.1.2 Listed for sale through a Real Estate Broker; or
  - 5.2.1.3 Disposed by any other method determined to be in the County’s best interest.

The Real Property Manager will report to the Facilities and Parks Services Division Manager the course of action recommended for property authorized for private sale and will follow the procedures to complete the disposition of the property according to the Real Property Procedures.