

# **CPED ACQUISITION PROCESS (DEFINITE ACQUISITION - EMINENT DOMAIN)**

## **1. Selection Process – Project Coordinator**

- a. Project Coordinator, in concert with Manager to identify parcel for potential acquisition. If initiated by other persons (i.e., Appraiser, Council Member, other CPED Staff or Neighborhood Group), the appropriate CPED Manager, as determined by the property's proposed end use, should be consulted.
- b. Project Coordinator, in concert with City Attorney, determines if property is in a Redevelopment Project Area and property is identified as property that may be acquired AND meets one of the following requirements:
  - i. Blighted Area.<sup>\*</sup> The property is “Blighted” meaning 50% of the building(s) on the property are "Structurally Substandard" where "Structurally Substandard" means a building:
    - (a) that has been inspected and cited for enforceable housing, maintenance or building code violations;
    - (b) in which the building code violations involve specific structural aspects of the building (i.e., roof, support walls and beams, foundation, internal utilities, etc.);
    - (c) in which cited violations have not been remedied after two notices to cure; and
    - (d) where the cost to cure the violations is more than 50% of the assessor's taxable market value for the building (excluding land value);
  - ii. Environmentally Contaminated Area.<sup>\*</sup> An area where more than 50% of the parcels contain contamination and the estimated costs of investigation, monitoring and testing and remediation are more than the assessor's estimated market value of the parcel OR in which the owner has not complied with a court order requiring cleanup or remediation within a reasonable time;
  - iii. Abandoned Property. Property that has been unoccupied or unused for at least 1 year, that has not been maintained and for which taxes have not been paid for at least the previous 2 years;
  - iv. Public Nuisance. Property that qualifies as a public nuisance under criminal statute, Minnesota Statutes § 609.74 (i.e., meth houses and houses of prostitution); or
  - v. Necessary for City operational purposes.
- c. Ensure that, if the property is located within a tax increment financing district, it is identified in the TIF plan as a property that may be acquired. Property must be in “may be acquired” status prior to committing to acquisition. Receive further instructions from

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<sup>\*</sup> Although both the statutory definitions "Blighted Area" and "Environmentally Contaminated Area" have the word "Area" in them, which implies you can assemble multiple sites, Minnesota Statutes § 117.027 specifically prohibits the taking of non-structurally substandard buildings and non-contaminated parcels unless there is "no feasible alternative."

CPED Development Finance staff, if property is in a TIF district and is not identified as property that "may be acquired."

- d. If property is not identified as appropriate for acquisition in a Redevelopment Project Area or is not otherwise exempted from Planning Commission review, contact the CPED Planning Staff using the electronic [Land Sale and Acquisition Review Form](#) to initiate City Planning Commission Review for consistency with the Comprehensive Plan under Minnesota Statutes § 462.356, subd. 2. Existing waivers include (i) acquisitions for the purposes of blight removal when the purchase/acquisition price of the property is less than \$150,000 and (ii) dispositions of non-buildable parcels where a "buildable parcel" is a parcel of real property that has enough frontage width and/or area either by itself or when combined with other adjacent City-owned property to accommodate at least a single-family home under the Minneapolis zoning ordinances after taking into consideration any variances or other relief available under such zoning ordinances.

## **2. Information Gathering by Project Coordinator**

- a. Hennepin County taxpayer information (tax status).
- b. Inspections orders.
- c. Inspections permit history.
- d. Condemnation status – if condemned, why? Check with Regulatory Services Staff to see if Director's Order to demo has been issued and discuss with your Manager the possibility of conflict of interest if order has been issued.
- e. Ownership and/or contact. Research owner information if necessary (sources: reverse directory, CityTalk, HC Property Information Search, area inspector, etc.).
- f. If there is a particular concern and upon request, Real Estate Staff will perform a tract check for foreclosure status, last deed of record and encumbrances.
- g. Legal description of each parcel or easement.
- h. Project Coordinator determines owner's willingness to sell (phone contact or casual interest letter or obtain copy of listing).

## **3. Due diligence**

- a. Project Coordinator to consult with Manager to determine whether to acquire all or a portion of the property. If proceeding, determine funding source for due diligence activities and continue with items below.
- b. Project Coordinator adds property to MINS and inserts appropriate information gathered in Step 2.
- c. Project Coordinator coordinates the Acquisition Team comprised of Appraiser, Engineering staff, Relocation staff (when applicable), Construction Management staff, Project Coordinator and attorney and ensures the following steps are completed (If the project scope involves acquiring a multi-family structure or multiple parcels, Project Coordinator schedules an initial meeting with the Acquisition Team to describe the project.):

- i. Determination of preliminary feasibility, including identification of a budget and source of funds for all acquisition activities.
- ii. Engineering staff to conduct review of general area geology for known issues with ledge rock, poor load bearing soils or pollution/contamination.
- iii. Project Coordinator to conduct evaluation of soil conditions with Engineering staff and determine whether additional environmental testing is warranted. Engineering staff should advise Project Coordinator of findings and make recommendations.
- iv. Engineering Staff to conduct visual inspection for obvious encroachments and follow-up survey if warranted.
- v. Project Coordinator to conduct preliminary cost analysis including acquisition, disposition, relocation, holding costs, leasing opportunities, legal and court costs as applicable.
- vi. Engineering staff to conduct review of public utility service.
- vii. Project Coordinator to determine preliminary feasibility including identification of a budget and source of funds for all acquisition activities, including Seller appraisal costs up to \$1,500 (single-family and duplex properties) or \$5,000 (all other types of properties).
- viii. Attorney to assist Project Coordinator by conducting legal evaluation of risks and benefits of eminent domain and recommendation of “quick take” or “slow take.” Note that strict adherence to these procedures is critical if state or federal funds are being used for the acquisition. Assistant City Attorney will help to retain outside real estate attorney assistance.
- ix. Project Coordinator in concert with Manager to determine whether to proceed with acquisition. If proceeding, continue to Item 4 below.

#### **4. Pre-Acquisition**

- a. Project Coordinator notifies neighborhood (with a copy to the affected Council Member) using the [Neighborhood Acquisition – Disposition Notice form](#) unless the property is already in a redevelopment project area and identified as appropriate for acquisition. The neighborhood gets 45 days to respond back to the Project Coordinator with any comments unless either (1) the acquisition is for the purpose of blight removal when the purchase price of the property is less than \$150,000 and the property is being acquired from HUD or Hennepin County, or (2) the neighborhood has waived its 45 day notice period.
- b. Project Coordinator notifies Real Estate Coordinator to begin acquisition process thru MINS.
- c. Project Coordinator sends the Request for Appraisal Services to CPED Appraiser thru MINS. CPED Appraiser orders Uniform Relocation and Real Estate Acquisition Policy Act (URA) appraisal from a member of the CPED Appraisal panel.
- d. Real Estate Coordinator mails [Preliminary Acquisition Notice with Eminent Domain Possibility](#) to owner giving the owner an opportunity to accompany the Appraiser and

obtain authority to conduct valuation and environmental activities. If environmental activities are invasive, obtain right of entry.

- e. Project Coordinator schedules site inspection with due diligence team.
- f. CPED Appraiser reviews appraisal and establishes fair market value.

## **5. Approval Process**

- a. CPED Appraiser advises Project Coordinator of fair market value.
- b. Project Coordinator decides whether to pursue making an offer.
- c. If proceeding with making an offer, Project Coordinator requests that Real Estate Coordinator order Title Commitment from title company.
- d. CPED Appraiser prepares Summary of Review Appraiser's Report.
- e. CPED Appraiser submits a report, signed by the Project Coordinator's Manager and Division Director, adopting fair market value and requesting CPED Director authorization to make an offer, identifying any due diligence shortfalls due to time constraints and including a due diligence checklist and estimate of acquisition and holding costs. An appraisal must be obtained before negotiations are initiated. Project Coordinator shall review report prior to finalization. Relocation Coordinator should be consulted to determine whether fair market value offer is sufficient for owner to purchase a comparable property in their existing community, if not, Director Report should be adjusted. Relocation Coordinator shall consult with assigned City Attorney as necessary.

## **6. Offer Process**

- a. Real Estate Coordinator and/or City Attorney staff as appropriate assists Project Coordinator in reviewing title commitment.
- b. Real Estate Coordinator or City Attorney staff, with assistance from Project Coordinator, prepares offer letter and purchase agreement and mail to owner. The City must provide the owner with a copy of the appraisal at the time an offer is made. The City must reimburse the Owner up to \$1,500 (single-family and duplex residential properties) / or \$5,000 (all other types of properties) for their own appraisal. Reimbursement to owner for owner's appraisal costs must be made within thirty (30) days of receipt of a copy of owner's appraisal and other necessary reimbursement information.
- c. If state or federal funds are expected to be used in the project, the owner is entitled to uniform relocation benefits. If only local funds are expected to be used in the Project, only the Minneapolis Relocation Policy applies.
- d. Project Coordinator and/or Real Estate Coordinator attempt to negotiate purchase price. If offer is not accepted, but an alternate negotiated price is reached, obtain CPED Appraiser concurrence with adjusted value or prepare written justification for offer price above fair market value, prepare an amended Report to the Director to adopt adjusted fair market value and obtain authorization to make another formal offer. No written offers may be made above the authority previously obtained from the CPED Director. If no agreed purchase price is reached, prepare a report to the Director to obtain authorization to seek Council authority to initiate Condemnation if failure to acquire through voluntary methods.

- e. Real Estate Coordinator facilitates execution of purchase agreement (if unable to negotiate a sale, skip Step 7 and proceed to Eminent Domain Process outlined below).
- f. Real Estate Coordinator sends one original executed copy of purchase agreement to Project Coordinator and Contract Management.

**7. Closing – Go to Closing – Real Estate Staff section in the voluntary sale procedure and follow all subsequent steps.**

## **CPED ACQUISITION PROCESS EMINENT DOMAIN PROCESS**

1. Project Coordinator prepares City Council transmittal for Authorization to File Condemnation approving appraisal and finding that the Property is needed for a statutorily authorized public use or public purpose with assistance from City Attorney staff. Project Coordinator requests publication and notices through Real Estate. Property owners must be provided written notification of the hearing by certified mail. Thirty (30) days (but not more than sixty (60) days) notice of hearing is required. City Attorney Staff drafts attached Resolution which must specifically identify the public costs and benefits known or expected from the Project and address why the property is necessary to serve the public purpose. The City Council cannot approve the condemnation until at least thirty (30) days after the meeting at which the public hearing is held. If quick-take is used, the resolution should describe why quick-take is necessary.
2. Project Coordinator requests Real Estate Coordinator to package the following documentation to send to law firm with a copy to assigned Assistant City Attorney:
  - a. Title Commitment
  - b. Appraisal
  - c. Certified copy of Resolution
  - d. All correspondence
3. Project Coordinator, Real Estate Coordinator and City Attorney staff review pleadings from outside Counsel.
4. Project Coordinator, Real Estate Coordinator and City Attorney staff consult with Counsel throughout entire condemnation process.

(Note: condemnation petition cannot be filed unless sixty (60) days have passed since last written offer to purchase).

### Basic Steps in Action

- a. filing the petition (Project Coordinator must request (from Real Estate Coordinator) and obtain check for court deposition amount equal to the City's most recent appraisal)
  - b. serving the petition and notice of hearing
  - c. court hearing followed by an order approving the petition and appointing commissioners
  - d. parcel viewing by commissioners
  - e. commissioner hearings
  - f. appeal to district court, if any
  - g. payment of final award and filing of certificate
5. There is almost always a "gap" between the date of the title work used to determine owners and the date the notice of lis pendens is recorded. To ensure you get good title, Real Estate Coordinator or City Attorney should instruct outside attorney to request updated title work through the date of recording the notice of lis pendens. Highly recommended for fee acquisitions; may not be practical for easement acquisitions.
  6. **When nearing settlement or Court transfer of title**, Project Coordinator requests that Real Estate Coordinator complete a tax search to obtain amount of taxes due or delinquent and obtain any current or delinquent water bills.
  7. **If a settlement has been reached**, Project Coordinator prepares Report to Director to receive authorization to pay settlement, deducting any taxes and water bills due or delinquent. Project

Coordinator instructs Real Estate Coordinator to request funds to pay seller or deposit into Court as advised by condemnation counsel.

8. **If no settlement, then upon signed Order authorizing the transfer of title**, Real Estate prepares a check request for deposit amount.
9. **If depositing funds with the Court**, Real Estate Coordinator in concert with outside attorney: (i) deposits funds into Court, directing Court to pay any taxes and water bills due or delinquent out of the deposit; (ii) obtains receipt of deposit; and (iii) files receipt of deposit in the Hennepin County Recorders or Registrar of Titles office.
10. **If settlement and dismissal of action**, closing should occur pursuant to normal procedures.
11. Real Estate Coordinator sends out acquisition notices to CPED staff (Project Coordinator, Property & Construction Management and Relocation).
12. Construction Management staff begin property management.
13. Real Estate Coordinator sends out notices to utility companies and makes arrangements for taxes to be abated.
14. **Upon receipt of bills from Court-appointed Commissioners**, Real Estate Coordinator prepares check requests for payment to them.
15. **If “quick take,”** Real Estate Coordinator requests a check for the balance due to seller, if any, when award is granted.
16. **Upon receipt of Final Certificate from outside Counsel**, Real Estate Coordinator orders an owner’s policy from title company.
17. Real Estate Coordinator maintains final records that consist of, at a minimum, the following: title commitment, appraisal, purchase agreement, court pleadings, closing documents (if any), check requests, final policy, and all correspondence.