



Policy Type: Board

Category: Land Use

Policy Name: Surplus Land Policy - Board Policy 7.8

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7.8 SURPLUS LAND POLICY - Also known as leasing or selling County-owned lands (Adopted 10-20-98; Amended 3-30-99; Amended 9-28-04; Amended 6-24-08; Amended 5-14-13)

- (A) There is a limited amount of land owned by the County of Santa Clara and a great need for the County to provide services to the community now and in the future. Therefore, the process to evaluate the use of County-owned land, particularly urban land, must consider the public benefit derived from the use decisions made. This Board Policy 7.8 shall not apply to County parklands that are subject to Board Policy 7.6. All below fair market real property, franchise and concession contracts involving County real property shall be subject to and comply with the provisions of Board Policy Section 5.9.5.6.
- (B) The County owns properties that may not be currently needed for County use and a cautious, deliberate and flexible decision-making process is needed to determine whether to retain, sell or lease those properties. Consideration must be given to the County's near and long-term goals and the public benefit of the uses considered.
- (C) County-owned properties under consideration to be leased or sold through a Board action are referred to as "surplus" since that is common terminology and is contained in the Government Code sections regulating the process. However, these properties may become important to the County's needs in the future. Through



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leasing surplus land, the property would return to the County at the end of the lease term, i.e., no longer be designated "surplus" by the Board.

- (D) When feasible, it is more desirable to lease rather than sell County-owned property. Information on the economic benefit of leasing plus any issues that would restrict the ability to lease for economic benefit are essential elements to the decision-making process.
- (E) Procedures are required that ensure that County-owned land undergoes an appropriate level of analysis before determining if a specific parcel should be designated by the Board for the following dispositions:
 - (1) A direct lease or sale to a nonprofit entity for a public purpose, or
 - (2) A direct lease or sale to a city for a public purpose, or
 - (3) Adoption of a resolution to declare it surplus (followed by offering it for lease or sale to housing, parks, schools and cities and then to private interests), or
 - (4) Retention (not leased or sold).

The procedures and analysis must be sufficient for the Board to give guidance to staff regarding such matters as: the level of competition or exposure to the marketplace that is desirable (direct vs. non-direct transactions), whether the property should be leased vs. sold vs. retained and how funding or use restrictions stemming from the funding source are to be handled.



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In order to provide directives regarding the decision-making process for analysis of County-owned property, on October 20, 1998 the Board of Supervisors approved the following policy guidelines:

- (A) Prior to agendizing to the Board an action that will result in the lease or sale of County-owned property, staff shall present an analysis to the Finance and Government Operations Committee, after presentations to other appropriate Board committees and/or commissions, if any.

The Finance and Government Operations Committee shall review and recommend resolutions/actions to the Board after the committee determines that appropriate analysis has occurred. The analysis should include the following features to a greater or lesser degree, dependent on the particular property.

- (1) An analysis of the County's potential near and long-term needs for the property. The criteria used to complete this evaluation would include:
 - (a) Discussion of any space or land use studies that show County use needs that are currently underway.
 - (b) Discussion of any space or land use studies that show County use needs that are completed.
 - (c) Analysis of how the needs enumerated in those studies might be met by the subject property now or in the future (with projected time-lines).
 - (d) Information on whether there are funding source or use restrictions that would inhibit or preclude the use of County land for specific County purposes and the



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amounts of any full or partial funding reimbursements that may be required.

- (e) A recommended length of a lease term if the property were leased for an interim period before needed for future County use.
- (2) General Plan considerations, for both the jurisdiction where the property is located and the County's General Plan policies.
- (3) Either an appraisal of the property or an economic opportunity evaluation study. If a study is chosen it shall include, when applicable: lease vs. sale economics, net present value comparisons, marketing options, market trends, proposed timing for disposal, minimum bid recommendations, development pro-formas, and title encumbrances (restrictive easements or bond financing encumbrances) and a discussion of the non-applicability of any of these elements if that is the staff determination.
- (4) Any known or anticipated CEQA issues.
- (5) Any known or anticipated issues with the local jurisdiction or surrounding community.
- (6) The potential for the property to be developed for affordable housing or the potential for the development to include an affordable housing component.
- (7) Any known or anticipated interest in the property from schools, parks, cities or affordable housing groups.



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- (8) Any known interest in or potential use for the property that would serve a public benefit other than those uses mentioned above.
 - (9) Any unique opportunities or special consideration for the re-use of the subject property such as joint development or any known or possible market interest in the property.
- (B) Staff shall analyze the potential for leasing vs. selling property whenever it is economically beneficial for the County's long-term needs (or discuss why this analysis was not included) and whenever it:
- (1) Does not violate the Board's 1987 Policy on Commercial Development on Parklands to establish commercial leases on park property only when consistent with the environmental, esthetic, economic and social uses of the parks and the accompanying guidelines, and
 - (2) Would not be superseded by the State Controller's requirements that certain Road Fund properties no longer used for road purposes must be sold at fair market value or equivalent compensation must be paid to the State Highway User Tax Fund.
- (C) If there is uncertainty of the source of the original funding, then proceeds from the disposition of the property (net of costs related to preparing the parcel for sale including, but not limited to, environmental remediation, surveys, appraisals, maintenance, etc.) shall go to the General Fund.
- (D) County-owned land required by the State for highway or freeway projects which is not subject to conveyance to the State without compensation under the provisions of Section 83 of the Streets and



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Highways Code shall be conveyed to the State only upon payment by the State of fair market value or equivalent credit in the State Transportation Improvement Program (STIP).

Related Policies

None.

Related Forms and Information

None.

History

| Date | Changes Made |
|------------|--|
| 2/10/2014 | Policy Uploaded. (Kyle Larson) |
| 5/14/2013 | Policy Amended. View legislative file. |
| 6/24/2008 | Policy Amended. View legislative file. |
| 9/28/2004 | Policy Amended. View legislative file. |
| 3/30/1999 | Policy Amended. |
| 10/20/1998 | Policy Adopted. View legislative file. |