

Livable Delaware Activity

Activity/Policy/Program Name: Sale and Disposal of Excess Land Policy (R-01)

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Purpose: Get rid of land we don't need for transportation uses.

Enabling Laws: 17 De. C. § 137 (b) (1) (2) (3) (4) (5) (7) (8) (9) (10) (11) When any property acquired by the Department is no longer needed for transportation purposes, the Department shall attempt to dispose of the property as follows:

- * If property is subject to a revenue-producing lease of at least 5 years, lease shall be given first opportunity to repurchase property.
- * If property had been acquired within 5 years of being declared excess, the previous owner, unless waived, shall be given the first opportunity to repurchase property.
- * If excess property has independent utility, the property shall be offered for sale at equal to or greater than 85% of the appraised value at a public auction.
- * If excess property has minimal independent utility or has nominal value (less than \$3,000) the property may be sold directly to an adjoining owner or an organized civic association or maintenance association for use as community open space at a price to be negotiated between the parties.
- * Excess lands may be traded or sold directly to an owner of another property being acquired for transportation purposes.
- * Excess lands may be conveyed to other governmental agencies for public purposes, to the Delaware Agricultural Lands Preservation Foundation, or the Delaware Open Space Council on terms agreeable to the Department and the other entities.

Policies: State of Delaware, Department of Transportation Policy Implement Number: R-01 Sale and Disposition of Excess Land. This policy outlines the sale and disposition process of excess lands no longer needed for highway construction needs. This policy follows the process outlined in the enabling law above.

History: In 1997, the Legislative body of the State of Delaware formed a task force, in part, to review the excess lands held by the Real Estate Section of the Department of Transportation. Discussions followed as to why the Department held 735 parcels and what actions needed to be taken to make it easier for the Department to dispose of its excess lands. On February 12, 1998 the Governor's office determined that the Department should make its disposition of surplus property a priority by immediately undertaking an aggressive effort to dispose of its current inventory.

Current Situation: As of January 1, 2001 the current land inventory consisted of 392 parcels. Since then we have disposed of 30 parcels with 87 still available for disposition. 240 parcels are reserved for future projects and 35 for corridor preservation. The 442 parcels disposed of from 1997-present have generated over \$7,000,000. We have returned parcels back to the tax rolls of the state. We also retained land as right of way for operations, which also contributes to open space. A conscious effort has been made to provide communities with open space land to improve the livability of existing communities. Larger parcels have been sold in areas to developers to encourage redevelopment.

Revisions/Actions Needed: In order to be compatible with Livable Delaware, we need to amend our policy so that prior to disposing of any excess lands, the Department will review each parcel with respect to whether the parcel is in a rural, community, urban or employment area. Disposition should only occur in, and be prioritized in, areas designated to promote development and growth or to promote new employment into under-utilized commercial and industrial sites. Those parcels in rural areas should be disposed of only in accordance with the purpose of

protecting farmlands and critical natural resource areas and preserving the rural character of the surrounding properties. Only parcels in development areas should be considered for disposal without zoning or use restrictions. State of Delaware, Department of Transportation Policy Implement R-01 Sale and Disposition of Excess Land will have to be modified to include the goals established in Executive Order No. 14, to assure no lands are sold that would disrupt the quality of life of communities. Lands that are disposed of to other state agencies would have to have explicit reference to the goals and objectives of Livable Delaware and the state investment strategies. Lands sold or disposed to the general public could not be done so as to enhance development in those areas not designated to promote development.

Resources Needed to Create/Revise: The Real Estate Section currently has sufficient staff to continue its disposition process. In order to meet the goals and objectives of Livable Delaware and the state investment strategies, funding and manpower will be required of our Highway Operations Division to maintain those lands are to be retained and designated as such. It is estimated that approximately \$100,000 per year will be needed to maintain those parcels retained. No additional manpower would be necessary if the maintenance was outsourced.

Process for Creation/Revision: The Real Estate Manual will need to be revised to provide for a review of each parcel to be disposed of in light of that parcel lying in a rural, community, urban, or employment area as determined under Livable Delaware and the state investment strategies. Based upon the category the excess parcel falls under, the decision will be made to retain the parcel or dispose of it to a civic group, or sell it to the general public or other governmental agency.

Schedule: A manual revision could be accomplished within a 60-day period given current staffing and workload. It would take approximately 60-90 days additional to review all remaining parcels to categorize them according to rural, community, urban, or employment areas, and to make a recommendation to retain them or continue disposition.

Measures to Guide Progress: In accordance with the 139th General Assembly House Bill 444 Amendments 1, 2, and 3 enacted into law February 12, 1998 the Department is now by law required to provide the Governor and General Assembly on or before December 31 of each year, a report identifying by size and location all properties being held for projects, properties deemed surplus or excess properties, dates of acquisition, purchase price, previous owners, date the property was determined to be excess, dates, and nature of actions undertaken to dispose of such excess properties, and approximate fair market value of each. The report shall further identify all properties disposed of during the previous year by size and location, date of disposition, appraised value, amount received from disposition, and name of the purchaser or owners. This activity has become a performance measure of the Preconstruction Division, and is monitored monthly. An addition could be added to the report identifying whether the property is in a rural, community, urban, or employment area as defined in the "Strategies for State Policies and Spending" map, and a breakdown percentagewise showing dispositions in development and agricultural areas.

Interactions or Inter-relationships with Other Agencies or Units of Government: The Department will coordinate excess land disposition with the State Property Inventory System being developed by the state Budget Office.

Federal law dictates that any land disposed of that was purchased utilizing federal funds, must be paid back to the federal government in the same percentage of federal funds used to purchase, unless the funds are utilized in other federally funded transportation projects. All right-of-way acquisitions are currently purchased using 100% state funds negating the need to pay back or reinvest. All excess properties that have independent utility are first offered to the Department of Administrative Services and the Delaware Economic Development Office. Any parcel not in a designated development area should be offered to those agencies with the caveat that they cannot be developed in a manner that conflicts with the Governor's goals and objectives

of Livable Delaware and the state investment strategies. This is the potential for partnerships with state and local agencies for the transfer of purchase of Development rights, or partnering with the Agricultural Land Preservation Program. SB 239 of the 139th General Assembly formed a committee consisting of legislators and local businessmen to review requests for advanced acquisition in connection with future projects and the Corridor Preservation Program. The Corridor Preservation Program is based on maintaining rural areas, while limiting growth to those areas designated under Livable Delaware and the state investment strategies.