

ORDINANCE NO. 437

AN ORDINANCE TO AMEND SECTIONS 2-291 THROUGH 2-293 AND 36-97 OF THE MEMPHIS CODE OF ORDINANCES RELATING TO THE SALE OF CITY REAL ESTATE

WHEREAS, the City of Memphis possesses parcels of real property necessary for the use and operation of City government and its functions; and

WHEREAS, from time to time, some of the property acquired or held by the City is no longer either necessary or desirable for City use; and

WHEREAS, it is in the best interest of both City government and the residents of the City of Memphis that this property be disposed of by the City and returned to the tax rolls or otherwise utilized for productive use.

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,

That Chapter 2, Sections 2-291 THROUGH 2-293, Code of Ordinances, City of Memphis, be deleted in their entirety, and the following language be substituted in lieu thereof:

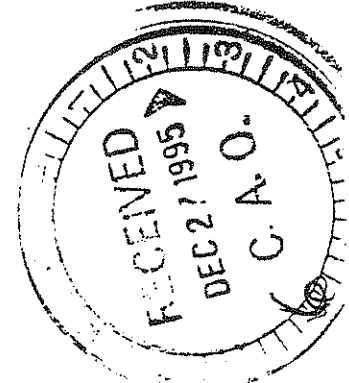
DIVISION 2. REAL PROPERTY

Sec. 2-291. Sale Generally

The Manager of the City Real Estate Department shall be authorized to sell, exchange, or transfer property no longer deemed necessary for City use and approve the sale of properties deemed surplus under the following conditions:

(1) SALE OF PROPERTY FOR MARKET VALUE.

- (a) The City Real Estate Manager shall place a value on all properties being considered for sale. However, on all properties having a probable value of ten thousand (\$10,000.00) dollars or more or on properties having a value of less than ten thousand (\$10,000.00) dollars where the real estate manager determines that an independent valuation is needed, the services of a qualified independent real estate appraiser may be obtained. After a valuation has been placed on the property by the City Real Estate Manager, he shall be authorized to make and approve the sale of such properties subject to the other provisions of this Ordinance.
- (b) The sale of properties receiving an initial bid offer of twenty thousand (\$20,000.00) dollars or less shall be submitted for approval to the City Council for first reading, which shall be final.
- (c) Properties receiving an initial bid offer exceeding twenty thousand (\$20,000.00) dollars shall be submitted to the City Council for first and second reading. The second reading shall be final. However, at the second reading, subsequent bidders will be permitted to bid in open council session but the first increased bid must be a minimum of five hundred (\$ 500.00) dollars. Thereafter, additional increases must be in minimum increments of Fifty (\$ 50.00) dollars.



- (d) Subsequent bidders must adhere to the terms and stipulations of the initial Agreement and may not introduce new contingencies in their bid.
- (e) On bids exceeding twenty thousand (\$20,000.00) dollars, failure of the highest bidder to follow through with the purchase of the property will result in the next highest bidder being accepted as purchaser. Any funds paid as earnest money by any prospective purchaser may be forfeited for failure to follow through with the purchase of the property.

(2) EXCHANGE OF PROPERTY.

- (a) The governing authorities of the City shall have full authority to exchange any real property acquired by them or held by the city, but no longer needed or utilized for municipal purposes. Any proposed exchange shall be first approved by the City Attorney and shall be advertised in a local newspaper at least two (2) weeks prior to its initial presentation to the City Council of the City of Memphis.
- (b) Prior to such exchange the properties to be exchanged shall be appraised as to market value by a professional independent appraiser and reviewed by the manager of the Real Estate Department.
- (c) Subsequent to the fixing of the values on property to be exchanged, the same shall be approved by the City Council, and, such values having been so approved, a resolution authorizing the execution of deeds of conveyance shall be submitted and passed by the City Council. The resolution shall provide for a first and second reading. The second reading will not subject the city property to increased bids and shall be final.

(3) SALE OR TRANSFER TO ANOTHER GOVERNMENTAL ENTITY.

In the event a sale or transfer of real property is to be made to any other governmental entity, its departments or agencies, the real estate manager shall be authorized to make and approve such sale or transfer subject to a resolution authorizing the execution of deeds of conveyance submitted to the City Council for first reading, which shall be final, and it shall not be necessary to receive bids or require a monetary consideration for such property to be sold to a governmental entity, its departments or agencies.

X (4) SALE OF EXCESS REALTY IN CONNECTION WITH STREET PROJECTS:

- (a) When the City Real Estate Department acquires right-of-way for a new street or public thoroughfare or for the improvement, realignment, or relocation of all or a portion of an existing thoroughfare or right-of-way and such project results in any of the following conditions, said department may, at its discretion, acquire title to and dispose of such properties in the immediate vicinity of the new or former thoroughfare or right-of-way:

- (1) The severance of a property owner's land resulting in an uneconomical remnant.
- (2) The realignment of a thoroughfare or right-of-way or abandonment of an existing thoroughfare or right-of-way which has the effect of eliminating or substantially reducing the access a property owner may have to the new thoroughfare or right-of-way.

(3)

The payment to a property owner for incidental damages arising out of land severance, denial of access or probable reduction in the value of the remnant would equal or exceed the cost of the real property to be conveyed to the affected property owner in lieu of cash compensation for damages. It shall not be a requirement to obtain a monetary consideration for such property.

- (b) Such agreements to acquire or dispose of excess realty from or to specific property owners in connection with a street project may be made part of the regular right-of-way agreement, a supplement, or a separate agreement subject to approval by the City Engineer and execution of all necessary documents by the appropriate City officials.

X (5)

DISPOSITION OF PROPERTY TO AN ADJOINING EQUITABLE PURCHASER.

The City Real Estate Manager shall be authorized to convey property to a selected adjacent property owner, without necessity of competitive bidding, for approval by the City Council with one reading under the following circumstances:

- (a) The city property to be conveyed would have no reasonable utility, for building or other purposes, unless it was used in conjunction with the property of the selected adjoining property owner.
- (b) Conveyance of the property to any prospective purchaser other than the selected adjoining property owner would materially diminish the value and/or utility of the property of said selected adjacent property owner.
- (c) Conveyance of the property to any prospective purchaser other than the selected property owner would cause undue hardship to said selected adjacent property owner.
- (d) The selected adjacent property owner is willing and capable of paying the value of the adjacent property to be acquired based on valuations determined by the City Real Estate Department.

(6) DISPOSITION OF PROPERTY ACQUIRED FOR REDEVELOPMENT PURPOSES.

Property acquired by the City for redevelopment purposes may be conveyed upon such terms and conditions as it deems proper and without regard to the conveyance procedure outlined in Sec. 2-291, (1) herein, upon passage of a resolution authorizing such sale or conveyance by the City Council upon first reading, which reading shall be final. Such reading shall take effect only after the following has been accomplished:

- (a) A finding by the city office of Housing and Community Development or its successor agency that such a sale or conveyance under the terms of this subsection would be in furtherance of the redevelopment goals of the Housing and Redevelopment Act of 1974, 2 U. S. Code § 5301 et seq.; or
- (b) A finding by any other city office, agency or department, whose purpose is the redevelopment of the city, that a sale under the terms of this paragraph (6) would be in furtherance of municipal redevelopment purposes.

(7) DISPOSITION/CONVEYANCE OF PROPERTY FOR PUBLIC BENEFIT:

(a) The City Real Estate Manager is hereby authorized to convey or dispose of City property at reduced or no cost to the following entities in the following order of priority:

- (1) Adjoining property owners.
 - (2) A neighborhood organization in an area targeted by the City for redevelopment.
 - (3) Non profit organizations whose use of the property will be for the benefit of the community.
 - (4) A program implemented or assisted by a private entity or government agency which has as its goal the development of vacant or underdeveloped land or the renovation of existing improvements on City-owned land for the purpose of providing occupant-owned housing to persons who qualify for housing programs designed for moderate and low income households and who would not otherwise be eligible for such housing.
 - (5) Other entities or organizations (profit or non-profit) which, in the opinion of the Mayor or Chief Administrative Officer of the City, are proper recipients of such property.
- (b) Conveyance of the property to the above described entities shall be subject to the following conditions:
- (1) Submission of an application to the City Real Estate Department by the entity seeking ownership of the property utilizing forms created and approved by the City Real Estate Department.
 - (2) Completion by the City Real Estate Department of a form providing basic information about the property, and valuation of the property.
 - (3) Completion of a form by the City Division which initiated the request for the property.
 - (4) Requests for conveyance of property under the terms of Item (7) A: (4) above must be made by either the Mayor or the Chief Administrative Officer only. All of the other provisions of this Section (7) B: (4) shall apply except for sections (3) and (5).
 - (5) Approval from both the Director having jurisdiction over the property and from the Chief Administrative Officer.
 - (6) Approval by the Memphis City Council. Said approval shall become final on second reading after all interested parties shall have had an opportunity to voice either their approval of or opposition to the transfer.

(8) AUCTION OF DISTRESSED PROPERTY.

Any City property which has not been disposed of in conformity with the above methods after the expiration of two (2) years from the date efforts were first made to dispose of such property may, at the discretion of the real estate manager, be presented before the City Council for a public auction which sale shall be final.

Preliminary Application to City of Memphis for Surplus City Property

Note: It is recommended that the applicant be as thorough, complete, concise and accurate as practicable in completing this application. If necessary, attach additional sheets amplifying on, completing or supporting information given on this form. If amplifying on a category in this form, indicate the *Item Number* of the category in the attachment. Be sure and indicate below the *total* number of sheets presented and have them consecutively numbered since the certification you make with the application will also apply to *all* attachment sheets or information. Please check the box for each category where one or more attachments were necessary. Date and Sign the Application and initial all attachments and see that they are received by the Real Estate Department prior to the required return date.

A: Applicants full name, current address of operations, principals involved, etc: (Add attachments as needed)

B: Statement indicating why applicant feels their current location is insufficient: (Add attachments as needed)

C: City Property Desired: (Indicate Ward, Block, Parcel, Street Address, other identification) (Add attachments as needed)

D: Description of City Improvements: (Please be specific)(Add attachments as needed)

E: Background and History of the Entity: (Add attachments as needed)

F: Background of each of the Principals: (Add attachments as needed for each Principal)

G: "Mission Statement" from Applicant: (Add attachments as needed)

H:

Indication of applicant's past experience with the contemplated project. (Add attachments as needed)

I:

Statement indicating applicant has addressed features, problems, aspects, etc. of the City property including environmental, structural, zoning and code related concerns and has logically and concisely itemized the cost to "cure" any abnormalities, and to renovate, maintain and use the premises for the purposes stated by applicant. (This section *must* contain dependable and detailed information) (Add attachments as needed)

J:

Profit and Loss Statements, Letters of Credit, financing arrangements and other evidence that applicant has the financial acumen and ability to renovate, maintain and use the premises for its stated purposes. (Attachments are mandatory for this item)

K:

Specific and detailed plans relative to use of the City property. (Attachments and plans are mandatory)

L:

Elaboration on how this City property uniquely suits the applicant's needs. (Add attachments as needed)

M:

Explain how the use of this City property by the applicant would benefit the City, Community. (Add attachments as needed)

N:

Detailed target dates for repair, renovation, occupancy, utilization of all areas of the property. (Attachments are mandatory)

O:

Specific plans about non-use or deferred use of a portion of the City property. (Add attachments as needed)

P:

Tenant Information: (Type, number, charges, occupations, names. (Add attachments as needed)

Q:

Any special treatment of the property contemplated by the applicant (Add attachments as needed)

R:

Documentation indicating the applicant is a valid non-profit entity, if applicable. (Attachments are mandatory)

S:

If a for-profit applicant, a concise statement indicating why this applicant should be selected. (Add attachments as needed)

T:

If a for-profit entity, a dependable estimate of the projected value of the property *after* renovations and repairs have been made and the contemplated effect on the City and County Tax Rolls. (Attachments are mandatory)

V:

Additional pertinent and meaningful information which the applicant desires to provide. (Add attachments as needed)

W: Certificate, Statement and Signature of Applicant:

I hereby certify that I am the principal for the Organization requesting the City property described herein and that the information I have given in this application is complete, true and accurate to the best of my ability and knowledge. I also affirm that I am authorized by the entity indicated in this application to act on behalf of all of its principals. I understand that a material consideration of the City considering my request is based on this application and will be further based on subsequent statements, understandings and agreements entered in by either myself or other authorized members of the entity which I represent in this application. I further understand that the City shall have no liability to myself or my organization, nor shall it have any duty to my organization for the initial condition of the property, for renovation or subsequent maintenance of the City property or for any other activities or costs related to my project. I am to be responsible for all Closing Costs or attendant costs associated with the transfer of this property. If I am the successful applicant, the City Property will be conveyed to me by Quit Claim Deed. It will be my responsibility to acquire assurance of good Title. I am herewith submitting a total of _____ sheets, including this three page form.

By: _____

Date: _____

Title: _____

Organization: _____

Address: _____

Telephone: _____

X: This section for use by the City of Memphis Real Estate Department only					
Receipt Date	Receipt Time	Total # Pages	Agent's Signature	Property Involved	Comments

TRANSFER OF PROPERTY

(Total number of executed copies made _____)

OWNER OF PROPERTY: CITY OF MEMPHIS, herein after referred to "Grantor"
OFFER SUBMITTED BY: _____
herein after referred to as "Grantee"

Address: _____ Telephone Number: _____
DESCRIPTION OF PROPERTY: _____

THE UNDERSIGNED GRANTEE ACCEPTS THE TRANSFER OF PROPERTY for the above described property for and in consideration of the sum of ONE AND NO/100 (\$1.00) DOLLAR, and other good and valuable considerations including those considerations covered in Item #10 below, to be paid by the Grantee unto the Grantor upon the following terms and subject to the following provisions:

- TITLE:** To be conveyed by Quit Claim Deed and subject to any rights of persons in possession, conditions, restrictions, encroachments, and further subject to any existing Easements granted to any Public Utility or otherwise, reserving any existing easements in favor of the City of Memphis and/or County of Shelby or any Quasi Public entity or Authority for any existing Public Utilities, or facilities, including but not limited to storm and sanitary sewer systems, electric, gas, water or communications lines. Prospective Grantee shall examine title prior to date of settlement and, at his election, may obtain an Abstract and/or Title Guaranty Policy at his expense. However, Grantor shall not be required to execute any document concerning condition of marketability of title including but not limited to "Sellers Affidavit as to Title". Should title to said property be found to be unmarketable, prospective Grantee will notify Grantor within _____ days, setting out all specific objections to title and upon such notice, Grantor, at its election, may take appropriate action to eliminate such defects and enforce specific performance under this agreement. However, any expense incurred by Grantor is to be paid by Grantee. Failure to clear such defects within a reasonable period of time shall cause this agreement to be voidable at either Grantee's or Grantor's option. "Marketability" as defined herein is not related to or dependent upon "Insurability".
- TAXES:** Property to be delivered free of all prior taxes, unless otherwise provided under paragraph _____ or subsequent below. However, the prospective purchaser will be responsible for all property taxes levied after the date of settlement of this property transfer.
- ABSTRACT OF TITLE, TAXES AND JUDGEMENTS:** Not required of Grantor.
- POSSESSION:** To be given on delivery of Deed.
- ACCEPTANCE:** It is understood and agreed that this agreement is subject to approval and acceptance by the proper City Officials as evidenced by their signatures below and/or their approval of this purchase by proper Resolution.
- CLOSING EXPENSES:** Grantee to pay all Closing and Transfer expenses. Grantors will provide a Quit Claim Deed using the City's form.
- The parties hereto acknowledge that NO Real Estate Commission is involved in this agreement. However, if it is subsequently determined that a Real Estate Commission is due in connection with this agreement, Grantees agree to pay said Real Estate Commission.
- Property conveyed "AS IS".
- Grantor makes no warranties and does not accept any liability arising out of the environmental, structural and/or physical condition of the property or the compliance with any of the applicable laws and regulations regarding such subjects.
- Grantee has inspected the property and has determined that the property is adequate for their purposes and has accepted all liability arising out of the environmental, structural and/or physical condition of the property or the compliance with any of the applicable laws and regulations regarding environmental issues.
- The Grantee warrants that the property will be used as specified in the attached "Preliminary Application to City of Memphis for Surplus City Property" form. Said property is being transferred to the Grantee for this specified purpose.

City of Memphis Real Estate Manager

Director

Director

City Attorney

Mayor

Grantee

Grantee

