

*Regional Conservation Authority***RECOMMENDED CHANGES TO SECTION 1.07 OF THE RCA LAND
ACQUISITION POLICIES PERTAINING TO BARGAIN SALES****Staff Contact:****Brian Beck
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At the RCA Board meeting of October 6, 2008, the Board of Directors directed staff to develop possible changes to the existing bargain sale policy in order to make the negotiation process clearer. The Board also asked staff to research the existing Internal Revenue Service requirements for a bargain sale to provide additional background. The Internal Revenue Service defines a bargain sale as "a sale or exchange for less than the property's fair market value". This definition is consistent with the definition of bargain sale in the existing RCA Board's bargain sale policy.

Staff recommends two changes to the bargain sale policy to make the negotiation process clearer. The first change is to add a statement that allows the bargain sale to be based on either an appraisal contracted by the RCA or by the property owner. The current version implies this, but is not explicit in permitting this.

The second change is to add a statement that staff should make the property owner aware of the bargain sale policy, in writing, at the time of presenting the offer, and request a written acknowledgement from the property owner that they have been notified of the policy. This is in response to a concern raised by the Board that staff should make property owners aware of the policy and its possible benefits, as early in the process as possible. The change will prevent future misunderstandings, as well as encourage owners to sell their properties for less than fair market value, and thereby result in cost savings to the RCA. The proposed policy amendment has been reviewed by Legal Counsel, and staff recommends approval.

Staff Recommendations:

That the Executive Committee:

- 1) Recommend to the Board of Directors to approve the attached modification to the Board's existing Bargain Sale Policy, Section 1.07 of the Land Acquisition Policies; and
- 2) Authorize staff to agendize this matter for the December 10, 2008 meeting of the RCA Board of Directors.

Attachment:

Proposed Modifications to the RCA's Bargain Sale Policy, Section 1.07 of the Land Acquisition Policies

AGENDA ITEM NO. 7

Attachment 1

**Proposed Modifications to
RCA's Bargain Sale Policy,
Section 1.07 of the
Land Acquisition Policies**

**ATTACHMENT 1
AGENDA ITEM NO. 7**

Section 1.07 Policies and Procedures for Execution of IRS Form 8283 for Bargain Sales and Donations

The Regional Conservation Authority (RCA) recognizes that it is appropriate to execute an IRS Form 8283 where the property owner has offered to either provide a bargain sale or to donate land to the RCA. The following policies and procedures are intended to establish basic guidelines for the execution and processing of a Form 8283.

- (a) The MSHCP provides that the RCA shall not pay more than fair market value for any property that it purchases.
- (b) Fair market value shall be determined by negotiation between RCA and the property owner provided that such fair market value is supported by one or more appraisals that are in compliance with the MSHCP and approved by the RCA. *The appraisal may be prepared by an appraiser contracted by either the RCA or the property owner.*
- (c) A Bargain Sale shall be defined to be the sale of property to the RCA for less than the appraisal that has been reviewed and approved by the RCA or an independent, qualified appraiser contracted by the RCA.
- (d) If a property owner elects to accept less than the RCA approved appraisal price, the transaction shall be eligible to be considered a Bargain Sale. The Bargain Sale and the execution of the Form 8283 must be documented in the Purchase and Sale Agreement and shall be subject to approval by the Board of Directors, prior to execution of the form.
- (e) If a property owner elects to donate land to the RCA, the execution of the Form 8283 must be documented in the donation agreement, prior to execution of the form.
- (f) All requests for execution of a Form 8283 shall be reviewed and approved by Legal Counsel prior to execution and may be submitted for either a Bargain Sale as defined in Section (c) above or for a donation of land.
- (g) Only the Chairman of the Board of Directors or the Executive Director or designee shall be authorized to execute a Form 8283, provided that the form has been processed consistent with these policies and procedures.
- (h) *Staff should notify the property owner of this policy, in writing, at the time of presenting an offer to the property owner, and request a written acknowledgment from the property owner that they have been notified of the policy.*