



Sales and Donations of Abandoned Property



Abandoned Sale/Donation v. NORA Expropriation

- NORA expropriations entail 2 court proceedings: (1) declaration of blight & (2) expropriation
- 1,000 properties on blighted list
- 7,000 adjudicated properties (v. abandoned)
- Sale/donation does not necessarily require a court proceeding



Statutory Framework for Sales

- R.S. 33:4712 – sales of surplus property
- R.S. 33:4720.11, *et seq.* – sales of “abandoned property”
- City Charter 6-306 - sales of publicly owned immovable property



Statutory Framework for Donations

- Const. Art. 7, §14(B)(6) – donations of “abandoned or blighted housing property”
- R.S. 33:4717.3 – donations of “abandoned or blighted housing property”
- R.S. 33:4720.25, *et seq.* – procedures for donations of “abandoned property or blighted housing property”
- Ordinance No. 20819, M.C.S. – waiver of all taxes; requirement that property be renovated within 270 days



Donations - La. Const. Art. 7, Sec. 14(A)

- Generally prohibits donations by political subdivisions.



La. Const. Art. 7, Sec. 14(B)

- Exceptions include the “donation of abandoned or blighted housing property by the governing authority of a municipality or parish to a nonprofit organization which is recognized by the Internal Revenue Service as a 501(c)(3) or 501(c)(4) nonprofit organization and which agrees to renovate and maintain such property until conveyance of the property by such organization.”
- See, also, La. R.S. 33:4717.3



2001 Regular Session

- La. R.S. 33:4720.30(C) provided that the donation was subject to taxes.
- Act No. 1204 of the 2001 Regular Session amended La. R.S. 33:4720.25, *et seq.*, to permit waiver of taxes.
- “The governing authority ... shall establish and publish a fair and equitable policy which shall have uniform application for determining the amount of taxes ... that shall be cancelled in each case.” La. R.S. 33:4720.29(A).



Implementing Ordinance

- The City Council passed an amended ordinance implementing the new legislation on August 8, 2002.
- The City cancels all taxes, paving and other assessments, interest and penalties. Ordinance No. 20819, M.C.S.



Definition of “Abandoned Property”

- ... means immovable property that has been adjudicated to a political subdivision for nonpayment of taxes [as opposed to being sold to a private entity for nonpayment of taxes], which property is vacant or not lawfully occupied. R.S. 33:4720.12(1).



Definition of “Vacant or Not Lawfully Occupied”

- ... shall include but not be limited to any premises which is not actually occupied by its owner, lessee, or other invitee, and has been left unsecured or inadequately secured from unauthorized entry to the extent that the premises may be entered and utilized by vagrants or other uninvited persons as a place of harborage or any premises which by reason of dilapidation, deterioration, state of disrepair, or other such status is otherwise detrimental to or endangers public safety, health, or welfare. R.S. 33:4720.12(1).
- The property does not have to have been declared blighted.



Definition of “Abandoned or Blighted Housing Property”

- ... and which can be used presently for housing or can be revitalized for housing. R.S. 33:4720.26(1).
- Donated abandoned property must be used for housing purposes.



Length of Adjudication

- Donations not permitted until the 3 year redemptive period has elapsed. R.S. 33:4720.29(A).
 - Not shortened to 18 months because the property is abandoned or blighted
- Because the City requires that property must be renovated within 270 days, it is not selling abandoned property until the redemptive period has passed.



Requirement of Renovation

- The purchaser/donee must renovate the property within 270 days of the sale/donation and, for donations, must maintain the property until it conveys the property. Ordinance No. 20819, M.C.S.
- Consistent with City and Building Codes.
- Failure to renovate and maintain results in revocation and dissolution of the donation.



2 Year Resale Requirement (Only for Donations)

- If single family, the purchaser must own the home and reside there as its primary resident for two years.
- If multi-family, the non-profit must own the property for two years.
- Failure to do so results in the owner having to repay the City the lesser of (1) the taxes, interest and penalties and (2) the appraised value of the property, less the valuation of the improvements made by the non-profit.
R.S. 33:4720.29(B).



Application for Sale or Donation

- Photographs showing the property to be left unsecured or inadequately secured from unauthorized entry to the extent that the property may be entered and utilized by vagrants or other uninvited persons as a place of harborage, or dilapidated, deteriorated, in disrepair, or otherwise detrimental to or endangering public safety, health or welfare



Tax Adjudication

- Tax bill, showing the property to be adjudicated to the City of New Orleans for taxes
- Tax sale deed to the City of New Orleans, with recordation information thereon, showing that the redemptive period has passed



Appraisal

- Appraisal of the property



Plan and Budget

- Plan for renovation of the property
- Budget for renovation of the property, which should include the attorney's fees and costs that may be necessary to render the title to the property merchantable
- Evidence of financial wherewithal



Non-Profit Status of Donee

- Corporate resolution, authorizing an officer of the non-profit organization to accept the donation
- Articles of incorporation of the non-profit organization
- Letter from the Internal Revenue Service, recognizing the non-profit status of the non-profit organization



Purchaser/Donee's Attorney

- Proposed act of sale or donation (form can be obtained from the City Attorney's office)
- Title insurance commitment, showing the parties who have interests in the property and the address of the parties as shown on the public records



Pre-Sale/Donation Review by City Attorney's Office

- Viability, feasibility and prudence determined by City Attorney's office and DHND
- Sale/Donation approved by the Director of Housing and City Attorney



Statutory Procedures

- Certified letters to owners, mortgagees and any other interested parties 60 days prior to the sale/donation. If any party cannot be found, notice is published for two consecutive weeks 60 days prior to the sale/donation
- Property can be redeemed at any time prior to the sale/donation
- Notice given to the Tax Collector, so any costs of the sale/donation may be collected when the property is redeemed R.S. 33:4720.17 & 4720.31.



Sale Procedures

- Approval by Mayor and City Planning Commission
- Minimum price set by Director of Finance
- Ordinance introduced, advertised and passed
- Public sale not required when for purposes of rehabilitation. City Charter 6-306.
- Sale "as is" without warranty of title. R.S. 33:4720.16(B).



Donation Procedures

- Donation signed by the Mayor
- Receipt of donation signed by the nonprofit organization
- Donation “as is” without warranty of title. R.S. 33:4720.30(B).



Post-Sale/Donation Follow-Up

- Copy of sale/donation
- Certificate of use and occupancy, showing that the property has been renovated within 270 days after the date of the sale/donation
- In donations, a review of Health and Housing files, which indicates that the property has been maintained during the time that the nonprofit organization owned the property



Single Family Home

- If the property is a single family home, a copy of the act of sale by the non-profit organization to a purchaser
- If the property is a single family home, an affidavit by the purchaser that he or she has owned the property for two years and that it has been the purchaser's primary residence during that time



Multi-Family Home

- If the property is multifamily, an affidavit by the non-profit organization that the non-profit organization has owned the property for two years



270 Days and Two Years Later

- Waiver of revocatory and dissolution conditions and acknowledgment that the resale requirements have been met



Cancellation of Mortgages, Judgments & Taxes - Sale

- “The recordation of the post-adjudication act of sale in the conveyance or mortgage office shall, in the manner as a tax sale deed ..., operate as a cancellation of all conventional and judicial mortgages, recorded against the property sold, including the liens and privileges for taxes, paving, and other assessments due the state or any political subdivision thereof.” R.S. 33:4720.16(C).



Cancellation of Mortgages and Judgments - Donation

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Cancellation of Taxes - Donation

- “[T]he recordation of the post-adjudication donation shall operate as a cancellation of those liens and privileges for taxes, paving and other assessments, interest and penalties due the state or any political subdivision as the post-adjudication donations shall indicate.” R.S. 33:4720.29(A).



Cancellation of Liens and Privileges

- “A post-adjudication [sale or donation] conducted pursuant to this Chapter shall transfer the property to the purchaser free and clear of any liens and privileges.” R.S. 33:4720.18 & 33:4720.32.



Suit to Quiet Tax Title

- The purchaser/donee may file a proceeding to quiet the adjudicated tax title after the donation. La. R.S. 47:2228.1. The suit is filed against the tax debtors or current owners, and if there are absentees, a curator is appointed. Other interested parties should receive a Mennonite notice.



Suit Not Required

- “The filing of the above suit shall not be mandatory; and the failure to bring said suit in no manner shall affect the validity of title to property purchased from the state or any political subdivision thereof, which property had been previously adjudicated to the state or political subdivision thereof for non-payment of taxes.” La. R.S. 47:2228.1(F).



Merchantability

- In the past, this proceeding has been considered indispensable by title examiners to creating a merchantable title. However, an alternative is being promoted by Tax Title Services in conjunction with First American Title, which may reduce the time period within which an insurable title may be established.



City Attorney's Office

- Program administered by City Attorney's Office
- Guide, application and adjudicated list available at:
 - www.blightbusters.com
 - Amoco Building, 1340 Poydras St., 11th Floor, across from City Hall