



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: July 9, 2007 REPORT NO: 07-120

ATTENTION: Committee on Land Use and Housing
Agenda of July 11, 2007

SUBJECT: Proposed changes to Council Policy 700-10 Sale and Leasing of City
owned real estate.

REFERENCE: Council Policy 700-10

REQUESTED ACTION:

Recommend that the City Council approve changes to Council Policy 700-10, Disposition of City Owned Real Property, that incorporate revised sale and leasing policies.

STAFF RECOMMENDATION:

Recommend that the City Council approve changes to Council Policy 700-10.

COMMUNITY PLANNING GROUP RECOMMENDATION: None

SUMMARY:

Council Policy 700-10 needs to be updated for the City to implement an effective program to manage the City's real estate assets in a manner that will maximize their value. To implement this program the following revisions to Council Policy 700-10 are recommended.

BACKGROUND:

SALE OF CITY OWNED REAL ESTATE:

As part of an overall portfolio management plan for the City's real estate assets, the Mayor's staff will review the City's property inventory to determine which properties are no longer needed for public facilities or to support the elements of the General Plan and whose disposition will provide a greater public benefit. A City owned property may become available for sale if:

- The property is not currently used by a City department or to support a municipal function.
- The property is vacant and has no foreseeable use by the City.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.

- Significant economic development opportunities can be generated by selling the property.

Factors to be considered in determining whether a property should be sold include:

- Will the City be relieved of potential liabilities and/or cost of maintaining property that does not generate income or provide public benefit.
- Property tax increment that will be created by returning the properties to the tax rolls.
- Stimulation of the economy by providing opportunities for private sector investment.
- Generation of revenue for the Capitol Outlay Fund or Enterprise Fund.
- The sale of the property will generate greater economic value than a ground lease.

B. Governmental Clearance Process

Government Code Section 54222 requires that a local agency proposing to dispose of surplus property first notify all governmental agencies operating within the City as to the availability of the property. The agencies are given 60 days to respond with an intent to acquire, if not, the property is deemed cleared for public sale.

- Governmental agencies are regularly contacted as the surplus list is updated.
- City departments, including Park & Recreation, Fire, Police, Libraries, MWWD, are individually contacted as the surplus list is updated.

C. Approval Process

City owned properties that have been identified by the Mayor as candidates for sale will be presented to Council for approval to be sold.

- If Council determines that the property may be sold, it shall authorize the Mayor to sell the property for a price equal to or greater than a minimum price established by a current (less than six months old) appraisal. The authorization to sell the property will be valid for twelve months from the date of Council action.
- The Mayor or his designee may enter into purchase and sale agreements, close escrows and execute and deliver grant deeds to the purchasers of the properties at prices equal to or greater than the minimum price approved by Council or terms and conditions deemed reasonable and in the City's best interests by the Mayor or his designee.
- The Mayor will report out on the price, terms and conditions of all transactions.
- Properties that are not sold at a price equal to or greater than the minimum price approved by Council will be returned to Council for further consideration prior to their disposition.

D. Method of Sale

Properties may be sold by any method allowed by Council Policy and Municipal Code. This includes direct negotiation, request for proposal, sealed bid, auction or other appropriate method as determined by the Mayor. The method of sale for all properties will be contained in the resolution authorizing their sale.

E. Marketing

Properties offered for sale shall receive the widest possible exposure to the open market place. This may be accomplished through direct marketing techniques, such as requests for proposals (RFP's), advertising, exposure through the real estate media, posting the property on the multiple listing service or any other appropriate method. When appropriate, properties may be listed for sale with qualified real estate brokers. The authorization to utilize brokerage services will be contained in the enabling resolution.

F. Real Estate Brokers

Real estate brokers may be used to represent the City in the sale of its properties. Brokers will be selected for individual assignments through requests for proposals (RFP) or requests for qualifications (RFQ) and a subsequent bid for commission or other methods that result in the City receiving the services of a qualified broker at the lowest possible commission rate. The maximum approved commission rate will be contained in the enabling resolution for the properties sale. All brokerage participation and brokerage fees shall comply with Municipal Code Section 22.0905, Broker's Fee and Registration.

LEASING OF CITY OWNED PROPERTY:

The current City leasing procedures have remained substantially unchanged since 1983. In addition to updating these procedures, the Grubb & Ellis report recommended a clearly defined description of the City's leasing policy. With this in mind, staff recommends the adoption of revised policies solely dedicated to the leasing of City-owned real estate (See Attachment). The following is a summary of the important changes contained in the proposed policy:

- The rate of return for leased property will be based on an appraisal that complies with the Uniform Standards of Professional Appraisal Practice (USPAP).
- More specific requirements for the establishment of percentage rents and minimum rents for percentage rate leases.
- Percentage rate adjustment every ten years to current fair market rents for percentage rate leases.
- Market rate adjustments every ten years and Consumer Price Index Adjustments in interval terms between market rate adjustments for flat rate leases.
- Rent arbitration process for situations where the City and Lessee cannot agree on new rent for a rental period under review.
- Defined Appraisal Assumptions.

- Required analysis of level of capital improvements and economic life expectancy of the development in order to determine length of lease term.
- Clearly defined maximum leasehold financing and refinancing restrictions including a requirement for substantial benefit to the City in refinancing situations.
- Specification that the maintenance to improvements and the costs for utilities are the responsibility of the lessee.
- Requirement that requests for assignment of leasehold interests will be evaluated with the same criteria as new leasehold proposals and may include additional consideration to the City.
- New requirements for lease extensions and renewals based on investment to City property and sound business practices in order to determine the appropriate length of any new term.
- Requirement that agreements provide the City the right to assume ownership of the leasehold improvements at the end of the lease. In the event that the lessee is granted an extension, the City will be compensated by an amount equal to the change in present value attributable to the deferral of the reversionary interest.
- Standard requirement for security deposit for new leases in an amount equivalent to three month's rent.
- Requisite that the City may charge a transaction processing fee in accordance to Administrative Regulation 95.25.

FISCAL CONSIDERATIONS:

The revisions to Council Policy 700-10 will establish procedures for the sale and leasing of the City's surplus that will maximize the value of the City's real estate assets.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Input on proposed revisions to the City's Sales and Leasing Policies was garnered from a cross-section of existing City lessees via an outreach meeting held July 6, 2007. Attendees included representatives of commercial leases, non-profit organizations, Mission Bay leases, agricultural leases, sporting and leisure facilities. In addition, a random sampling of lessees were contacted by phone or e-mail to advise them of the proposed revisions and directing them to the City's website for a copy of the draft policy.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The recommended changes to Council Policy 700-10 will enable the City to manage its real estate assets in a more efficient and productive manner that will allow the City to maximize their value.

Respectfully Submitted,

James F. Barwick
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Land Use and Economic Development

BARWICK/TM

[Attachment I: Redline/Strikeout copy of existing Council Policy 700-10](#)

[Attachment II: Recommended Revised Council Policy 700-10](#)