

Introduced by Presiding Officer, on request of the County Executive and Legislators Krupski, Hahn

RESOLUTION NO. 265 -2013, AMENDING CHAPTER 1070 OF THE CODE OF SUFFOLK COUNTY FOR REAL ESTATE APPRAISAL, ACQUISITION AND DISPOSITION, AND IMPLEMENTING THE "TRIPLE A" ACQUISITION PROCEDURE

WHEREAS, this Legislature finds that the County acquires real estate which requires appraisal; and

WHEREAS, the procedures for such acquisition should provide for prioritization of properties to be acquired; and

WHEREAS, due to budget constraints, such procedures should avoid expenditures attendant to acquisition of such properties until it can be reasonably determined that funds for such acquisitions will be available; and

WHEREAS, Chapter 1070 of the Code of Suffolk County establishes procedures for real estate appraisal, acquisition and disposition; now, therefore be it

1st **RESOLVED**, that Chapter 1070 of the Code of Suffolk County be amended as follows:

CHAPTER 1070. REAL ESTATE APPRAISAL, ACQUISITION AND DISPOSITION

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ARTICLE I. Requirements for Appraiser and Appraisals; Auction of Surplus Real Estate

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§ 1070-5. Periodic appraiser review.

The list of approved appraisers utilized by the County for acquisitions or dispositions of any interest in real estate shall be reviewed by the County Legislature [on a more-frequent basis, i.e., at least annually] in January of each even-numbered year.

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[§ 1070-7. Preliminary negotiations.

The authority provided in a planning steps resolution for the acquisition of any interest in real estate by the County of Suffolk shall include the ability of the County Real Estate Division to initiate preliminary negotiations, subject to final County legislative authorization of the actual acquisition after negotiations are completed.]

[§ 1070-8] § 1070-7. Application of rules of auction.

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[§ 1070-9] § 1070-8. Negotiation process.

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[§ 1070-10] § 1070-9. Conflicts of interest.

The staff of the County Real Estate Division is hereby prohibited from engaging in any outside business activity in the real estate field, which requirement shall apply to management exempt staff as well as positions secured by competitive civil service examination, consistent with the application of civil service rules.

[§ 1070-11] § 1070-10. Employee certification.

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[§ 1070-12] § 1070-11. Procedural manual.

A procedural manual shall be created and maintained by the County Real Estate Division describing the duties, standards of conduct, and responsibilities of the Division and its employees, within 180 days subsequent to the effective date of this [article] Chapter.

[§ 1070-13] § 1070-12. Personnel financial disclosure.

The department head having jurisdiction over the County Division of Real Estate shall review the list of personnel in the Real Estate Division who are required to file an annual financial disclosure affidavit under [§ 61-4]Article II of Chapter 77 of the Suffolk County Code for the purpose of identifying potential conflicts of interest and to ensure that all [Real Estate]Division of Real Property Acquisition and Management personnel comply with the requirements [of § 77-4 of the Suffolk County Code]thereof, Article XXX of the Suffolk County Charter and Article XXX of the County Administrative Code, and shall file, on January 31 of each year, with the Clerk of the County Legislature a list of the individuals so determined to be obligated to file said annual financial disclosure affidavit.

[§ 1070-14] § 1070-13. Auction list release.

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[§ 1070-15] § 1070-14. Oversight.

The level of oversight of acquisitions or any interest in real estate to be acquired by the County of Suffolk shall be commensurate with the value and/or complexity of any interest in real estate authorized to be acquired via duly enacted resolution of the County of Suffolk, as follows.

A. Level One acquisitions: \$0 to \$25,000.

(1) One appraisal, generic or specific.

(2) Division Director's approval and review pursuant to §1070-18. Review pursuant to §1070-19 shall not be required.

B. Level Two acquisitions: \$25,001-\$300,000

(1) One specific appraisal.

(2) Review pursuant to §1070-18 and §1070-19.

C. Level Three acquisitions: in excess of \$300,000.

(1) Two specific appraisals.

(2) Review pursuant to §1070-18 and §1070-19.

[§ 1070-16] § 1070-15. Seller's appraisal.

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[§ 1070-17] § 1070-16. Joint acquisition appraised value limitation.

In joint acquisitions of any interest in real estate by the County of Suffolk with municipalities, not-for-profit organizations, other governmental entities, or any other third parties, there shall be no discretion for the Director of [the County Division of] Real Estate, or the department head having jurisdiction over [said] the Division of Real Property Acquisition and Management, to exceed, in the aggregate, the approved appraised value for acquisition of any interest in real estate by the County of Suffolk, as determined by an approved County-generated appraisal, except in those instances in which a court of competent jurisdiction has ordered "just compensation" in an Eminent Domain Procedure Law proceeding instead of approved appraised value for said acquisition of an interest in real estate.

ARTICLE II. Land Acquisitions

[§ 1070-18] § 1070-17. Approval of [planning steps] resolutions; “Triple A Program”; quarterly reports.

A. [Planning steps] Resolutions for proposed land acquisitions, other than acquisitions pursuant to Article XXXVI of the Administrative Code of Suffolk County and acquisitions undertaken for reclamation of properties due to natural disasters, shall be submitted to the Suffolk County Legislature for approval [, either with individual parcels or with a pertinent master list annexed to such planning steps resolution.]in three stages as set forth herein.

B. The Director of the Division of Real [Estate]Property Acquisition and Management, after consultation with the [Commissioner of the Suffolk County Department of Economic Development and Workforce Housing in connection with parcels to be acquired under Article XXXVI of the Suffolk County Administrative Code, or the] Suffolk County [Planning] Director of Planning [in connection with all other parcels to be acquired], shall begin the acquisition process on parcels for which [planning steps]acquisitions have been approved.

[C. The Director of the Division of Real Estate shall submit a quarterly report to the County Executive, and to the members of the Suffolk County Legislature, which report shall contain the status of each parcel contained on any approved planning steps resolution.]

C. Acquisitions shall be conducted according to the following “Triple A Program”:

(1) Appraisal Resolution.

a. Unless a parcel already appears on the Comprehensive Master List or Planning Steps have been approved prior to January 1, 2013, the Department of Economic Development and Planning, Division of Planning & Environment shall review and evaluate potential sites for acquisition, including sites recommended by the Farmland Committee, Legislature or County Executive, sites to be acquired in partnership with other municipalities or non-profit entities and other sites which have come to the attention of said Department.

b. Upon approval of the Appraisal [Step] Resolution by the Legislature, together with appropriation of funds for required appraisals and for title, survey and environmental assessment, Letters of Potential Interest will be sent by the Division of Real Estate to the owners of the subject sites.

c. Upon written expression of interest by such owners, appraisals will be conducted in accordance with this Chapter. Title, survey and environmental assessments shall not be performed until after an Acquisition Resolution is adopted by Procedural Motion, as provided in (2) below.

d. No less frequently than twice a year, results of all appraisals not yet reviewed by the Environmental Trust Review Board will be forwarded to it for consideration pursuant to § 1070-19, at a meeting scheduled for such purpose. Such meeting shall be conducted in executive session, and the values set shall be confidential. Each value determined by such Board shall be the highest price to be offered for any site. Once value has been determined by such Board, it shall not further review value for a particular parcel for at least one year from the date of the last review of such parcel.

(2) Acquisition Resolution.

a. Upon establishing highest offer prices, a report containing all sites reviewed and the highest offer price set for each shall be forwarded to the Environment, Planning and Agriculture Committee of the Legislature together with scoring and recommendations from the Division of Planning and Environment, as well as an account of the funds expected to be available for acquisitions. Such report shall be delivered to such Committee at its next meeting after the review by the Environmental Trust Review Board, but in no event later than 30 days after such review.

b. The Environment, Planning and Agriculture Committee will select among the sites submitted to it, subject to available funds, and shall prepare a Procedural Motion setting forth such priorities, and authorizing the funds appropriated in (1) above to be expended for title reports, surveys and environmental site assessments for each site. Such Procedural Motion shall be considered by the full Legislature.

c. Upon adoption of the Procedural Motion by the Legislature, the owner of each approved site will be made an offer for the purchase of such site, by proffer of a contract, which contract shall meet the approval of the Director of Real Estate.

d. Upon execution of the contract by the owner, the Division of Real Property Acquisition and Management shall procure a title report, survey and environmental site assessment for each site selected by the Legislature for which contracts have been signed by the site owner.

e. Owners of sites not selected for acquisition shall be advised of the rejection and of the potential for acquisition in the future.

(3) Approval Resolution

a. After completion of the steps set forth in (2) above, a resolution will be submitted for approval of each satisfactory site to the Environment, Planning and Agriculture Committee by the Director of Real Estate, and, upon discharge from such committee, to the Legislature, which resolution shall seek approval to fund and close.

b. Those sites recommended for approval will be accompanied by a proposed finding under the State Environmental Quality Review Act.

D. The Director of the Division of Real Property Acquisition and Management shall submit a quarterly report to the County Executive, the Commissioner of Economic Development and Planning, the Environment, Planning and Agriculture Committee of the Legislature and the members of the Suffolk County Legislature, which report shall contain the status of each parcel contained in any approved acquisition resolution.

[§ 1070-19] § 1070-18. Internal Appraisal Review Panel; appraisal process.

A. There shall be an Internal Appraisal Review Panel within the Division of Real Estate consisting of the following members:

(1) The Suffolk County [Division] Director of Real Estate [Director]; and

(2) Three members to be appointed by the Director of [the Division of] Real Estate at least one of whose civil service qualifications include substantial appraiser experience.

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[§ 1070-20] § 1070-19. Environmental Trust Review Board; duties; review process.

A. Prior to negotiating for a proposed acquisition, it shall be presented to the Environmental Trust Review Board, which shall meet at least [monthly] semi-annually and which shall consist of the following nine members:

(1) The Director of [the Suffolk County Department of] Planning, who shall serve as Chairman;

- (2) The Presiding Officer of the Suffolk County Legislature, or his or her designee;
- (3) The Chairman of the Parks and [Cultural Affairs] Recreation Committee of the Suffolk County Legislature, or any successor committee thereto;
- (4) The Chairman of the Environment, Planning, and [Acquisition] Agriculture Committee of the Suffolk County Legislature, or any successor committee thereto;

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B. [Within 45 days after presentation of the reviewed appraised value, the] The Environmental Trust Review Board is hereby authorized, empowered, and directed by a vote of at least a majority of those present to review and authorize the Director of [the Division of] Real Estate to commence negotiations for proposed acquisitions at a price [to be determined] not to exceed the value established by the Environmental Trust Review Board, after consulting with the representative of the Internal Appraisal Review Panel, or [may reject such reviewed appraised value and] it may recommit such proposed acquisition to the Division of Real Estate for further examination. [If no action is taken, then, in that event, on the 46th day following presentation of a proposed acquisition, the acquisition is deemed to be approved at the approved appraised value recommended by the Internal Appraisal Review Panel, and the Director of the Division of Real Estate shall be deemed authorized as of that date to commence negotiations for the proposed acquisition at said approved appraised value.]

C. The amount to be paid shall not exceed that which has been determined in accordance with the provisions of [the 12th Resolved clause.] this section. Proposed acquisitions shall not be reviewed again for at least one year from the date of the last review of such parcel.

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[§ 1070-21] § 1070-20. Time limit for completion of negotiation process.

[From the date of approval by the Environmental Trust Review Board,] The Director of [the Division of] Real Estate shall complete the negotiation process within 90 days of the approval of the Procedural Motion required by section 1070-17 C (2) or shall either deem the negotiation process to be indefinitely suspended or shall return to the Environment, Planning and Agriculture Committee of the [al Trust Review Board for] Legislature for authorization of an additional time period.

[§ 1070-22] § 1070-21. Time limit for presentation of contract of sale.

Within [14] 21 days after the Division of Real [Estate] Property Acquisition and Management and the seller reach an agreement as to price and other significant contract matters, a conditional contract of sale shall be presented to the seller for execution.

[§ 1070-23] § 1070-22. Consideration of contract by Legislature.

Upon execution of a contract of sale, a proposed acquisition shall be submitted for consideration by the full Legislature, pursuant to the procedure set forth in §1070-17.

[§ 1070-24] § 1070-23. Time limit for filing valuation rationale.

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[§ 1070-25] § 1070-24. Applicability.

This article shall apply to the acquisition of any interest in real property, the [planning steps authorization for] acquisition of which occurs on or after the effective date of this article; and be it further

2nd **RESOLVED**, that this Legislature, being the State Environment Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20) and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

[] Brackets denote deletion of language.

__ Underlining denotes addition of new language.

DATED: April 23, 2013

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: April 30, 2013