

R E S O L U T I O N N O . 9 O F 2 0 1 3

The Greater Syracuse Property Development Corporation met in Regular Session at 333 West Washington Street, Syracuse, New York, on January 8, 2013, at 12:30 P.M.

The meeting was called to order. Upon the roll being duly called, the following members were:

PRESENT: Daniel Barnaba, Mary Beth Primo, Dwight L. Hicks, James Corbett

ABSENT: Vito Sciscioli

The following Resolution was offered and duly seconded, to wit:

R E S O L U T I O N T O A D O P T A N I N V E S T M E N T P O L I C Y

WHEREAS, Public Authorities Law § 2824(1)(e) and Not For Profit Corporations Law § 552 (f) requires the Board of the Greater Syracuse Property Development Corporation to establish a written policy concerning the investments of the Land Bank consistent with Article 5-A of the N-PCL; and

WHEREAS, the proposed Investment Policy was reviewed and forwarded from the Governance Committee on December 20, 2012; and

WHEREAS, the Members of the Corporation have received the proposed Investment Policy, have had the opportunity to review it, and said proposed Investment Policy is attached to this Resolution as Appendix "A".

NOW, THEREFORE, BE IT RESOLVED by the Corporation that:

1. The Corporation hereby adopts the Investment Policy attached to this resolution as Appendix "A"

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

Yes: Daniel Barnaba, Mary Beth Primo, Dwight L. Hicks, James Corbett

No:

The foregoing Resolution was thereupon duly adopted.

APPENDIX "A"

GREATER SYRACUSE PROPERTY DEVELOPMENT CORPORATION INVESTMENT POLICY

INTRODUCTION

The Purpose of this policy is to establish guidelines for the prudent investment of the Land Bank's Institutional Funds that are consistent with the laws of the State of New York.

1. **DEFINITIONS.** As used herein, the following terms shall have the meaning set forth below.

1.1 "Board" shall mean the Board of the Greater Syracuse Property Development Corporation.

1.2 "Charitable Purpose" shall mean the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community including any purpose that is charitable under the laws of the state of New York.

1.2 "Endowment Fund" means an Institutional Fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the Land Bank on a current basis. This term shall not include assets that an institution may designate as an endowment fund for its own use, consistent with the terms of the applicable gift instrument.

1.3 "Donor" means the person who grants or transfers property to the Land Bank pursuant to a gift instrument, or a person designated in the applicable Gift instrument to act in the place of the donor, but does not otherwise include the person's executors, heirs, successors, assigns, transferees, or distributees.

1.4 "Gift instrument" means a record or records, including any solicitation by the Land Bank, under which property is granted to, transferred to, or held by the Land Bank as an institutional fund.

1.5 "Institutional Fund" shall mean any fund held by the Land Bank but shall not include (1) program related assets; (2) a fund held for the Land Bank by a trustee that is not the Land Bank or (3) a fund in which a beneficiary that is not the Land Bank has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund. *See N-PCL §551(e)*

1.6 "Land Bank" shall mean the Greater Syracuse Property Development Corporation.

- 1.7 “N-PCL” shall mean the New York Not for Profit Corporations Law.
1.8 “PAL” shall mean the New York Public Authorities Law.

2. CONTROLLING LEGISLATION

2.1 PAL §2824(1)(e) and N-PCL § 552(f) require the Land Bank to establish a written policy concerning the investments of the Land Bank consistent with Article 5-A of the N-PCL.

2.2 These Guidelines are intended to be consistent with and shall be construed in accordance with the PAL and N-PCL. The Land Bank shall make investments in accordance with these Guidelines, the PAL and the N-PCL.

3. INVESTMENTS OF THE LAND BANK

3.1 **Authorization of Investment.** Any investment of an Institutional Fund shall be specifically authorized by an action of the Board.¹

3.2 **Types of Investment.** The Land Bank may invest Institutional Funds in financial instruments, obligations, securities, or real and personal property as determined proper by the Board, and name and use depositories.²

3.3 **Investment Goals.** The Land Bank seeks to deliver a true rate of return after adjustment for inflation. Risk of loss of purchasing power due to inflation is a primary concern and some short term reasonable volatility must be incorporated to offset the risk. A reasonable rate of return on an annualized basis is acceptable over the time horizon stated for the portfolio. The portfolio should take appropriate risk commensurate with achieving this goal.

4. Standard of Conduct in Managing and Investing an Institutional Fund³

4.1 General Principles.

a) Subject to the intent of a donor expressed in a Gift Instrument, the Land Bank in managing and investing an Institutional Fund, shall consider the purposes of the Land Bank, and the purposes of the Institutional Fund. The Board shall act to manage and invest any Institutional Fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

b) In managing and investing an Institutional Fund, the Land Bank consistent with N-PCL § 717:

¹ N-PCL § 1607(a)(11)

² N-PCL 1607(a)(11)

³ N-PCL § 552

- i) May incur only costs that are appropriate and reasonable in relation to the assets, the purpose of the institution, and the skills available to the institution; and
- ii) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

4.2 **Reliance on third parties.** In managing an Institutional Fund, Board members, when acting in good faith, may rely on information, opinions, reports or statements including financial statements and other financial data, in each case prepared or presented by: (1) one or more officers or employees of the corporation, whom the Member believes to be reliable and competent in the matters presented, and (2) Persons as to matters which the Member believes to be within such person's professional or expert competence. Members shall not be considered to be acting in good faith if they have knowledge concerning the matter in question that would cause such reliance to be unwarranted.⁴

4.3 **Pooling of Funds.**⁵ The land Bank may pool two or more Institutional Funds for the purposes of management, and investment.

4.4 **Limitation on Profits.**⁶ The Land Bank shall conduct no activities for pecuniary profit or financial gain, except to the extent that such activity supports its other lawful activities then being conducted. All profit need not be currently expended for such purposes; however such profit making activities and the profits resulting therefrom must be reasonably related to the requirements of the Land Bank's activities as they are conducted at the time that the profit making activity occurs.

4.5 **General Rules.**⁷ Except as otherwise provided for in a Gift Instrument:

- a) **Managing Factors.** In managing and investing an institutional fund, the Land Bank must consider the following factors, if relevant: i) general economic conditions; ii) the possible effect of inflation or deflation; iii) the expected tax consequences, if any, of investment decisions or strategies; iv) the role that each investment or course of action plays within the overall investment portfolio of the fund; v) the expected total return from income and the appreciation of investments; vi) other resources of the Land Bank; vii) the needs of the institution and the fund to make distributions and to preserve capital; and viii) an asset's special relationship or special value, if any, to the purposes of the institution.

⁴ N-PCL 717(b)

⁵ N-PCL § 552(d)

⁶ N-PCL § 204

⁷ N-PCL § 552(e)

- b) **Decisions.** Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the Institutional Fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the Land Bank.
- c) **Diversification.** The Land Bank shall diversify the investments of an Institutional Fund unless the Land Bank prudently determines that, because of special circumstances, the purposes of the fund are better served without diversification. The Land Bank shall review a decision not to diversify as frequently as circumstances require, but at least annually.
- d) **Retention or disposal of fund property.** Within a reasonable time after receiving Institutional Fund property, the Land Bank shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the Institutional Fund into compliance with the purposes, terms, and distribution requirements of the Land Bank as necessary to meet other circumstances of the Land Bank and the requirements of Article 5-A of the N-PCL.

5. RELEASE OF DONOR RESTRICTIONS ON FUNDS

5.1 Release of Donor Restrictions on management, investment, or purpose of Institutional Fund⁸.

- a) If the donor consents in writing, the Land Bank may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an Institutional Fund. A release or modification may not allow a fund to be used for a purpose other than a Charitable Purpose of the Land Bank.
- b) Upon the application of the Land Bank, in the case of gift by will, the Surrogates Court in which such will is probated, or the Onondaga County Supreme Court in all other cases, may modify a restriction contained in a gift instrument regarding the management or investment of an Institutional Fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The Land Bank shall notify the donor, if available, and the attorney general of the application, and

⁸ N-PCL § 555.

the attorney general and such donor must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

- c) If a particular purpose or a restriction contained in a gift instrument on the use of an Institutional Fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of the Land Bank, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the purposes expressed in the gift instrument. The Land Bank shall notify the donor, if available, and the attorney general of the application, and the attorney general and such donor must be given an opportunity to be heard.

6. RULES PERTAINING TO EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUNDS.⁹

6.1 **Factors.** Subject to the intent of a donor expressed in the gift instrument, the Land Bank may appropriate for expenditure or accumulate so much of an Endowment Fund as the Land Bank determines is prudent for the uses, benefits, purposes, and duration for which the Endowment Fund is established. Unless stated otherwise in the gift instrument, the assets in an Endowment Fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the Land Bank shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- a) the duration and preservation of the Endowment Fund;
- b) the purposes of the Land Bank and the Endowment Fund;
- c) general economic conditions;
- d) the possible effect of inflation or deflation;
- e) the expected total return from income and the appreciation of investments;
- f) other resources of the Land Bank;
- g) where appropriate and circumstances would otherwise warrant, alternatives to expenditure of the Endowment Fund, giving due consideration to the effect that such alternatives may have on the institution; and

⁹ N-PCL §553

h) the investment policy of the Land Bank.

For each determination to appropriate for expenditure, the Land bank shall keep a contemporaneous record describing the consideration that was given by the governing board to each of the factors enumerated in this paragraph.

6.2 Limitations in Gift Instruments

a) The power of the Land Bank to appropriate for expenditure or accumulate under the provisions of paragraph 6.1 shall not be limited unless the Gift Instrument specifically states the limitation. Terms in a Gift Instrument setting forth a specific spending level, rate, or amount, or explicitly modifying or overriding the provisions of paragraph 6.1 of this section, will limit the authority of the institution to appropriate for expenditure or accumulate under said section.

b) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only “income,” “interest,” “dividends,” or “rents, issues, or profits,” or “to preserve the principal intact,” or words of similar import:

(1) create an Endowment Fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(2) do not otherwise limit the authority to appropriate for expenditure or accumulate under paragraph 6.1 of this section.

6.3 Presumption of Imprudence (Endowment Funds). A rebuttable presumption of imprudence shall apply to gift instruments as follows: The appropriation for expenditure in any year of an amount greater than seven percent (7%) of the fair market value of an Endowment Fund, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than five years immediately preceding the year in which the appropriation for expenditure is made, creates a rebuttable presumption of imprudence. For an Endowment Fund in existence for fewer than five years, the fair market value of the endowment fund must be calculated for the period the Endowment Fund has been in existence. This section 6.3 does not apply to an appropriation for expenditure permitted under law other than Article 5-A of the N-PCL or as permitted by the gift instrument itself. This section 6.3 does not create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to seven percent of the fair market value an Endowment Fund.

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

I, the undersigned, Dwight L. Hicks, Secretary of the Greater Syracuse Property Development Corporation, DO HEREBY CERTIFY:

That I have compared the foregoing extract of the minutes of the meeting of the Greater Syracuse Property Development Corporation including the resolution contained therein, held on the 8th day of January 2012, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Greater Syracuse Property Development Corporation and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Greater Syracuse Property Development Corporation had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY that there was a quorum of the members of the Greater Syracuse Property Development Corporation present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Greater Syracuse Property Development Corporation this 2nd day of ~~April~~, 2012.

MAY 2012
Dwight L. Hicks

Dwight L. Hicks, Secretary