



*Pictured at the signing ceremony are, Front Row, left to right - Mike Cuscaden, President, CHR; Peter Dys, President, Shell Point Back Row left to right Scott Marcelais, Executive Director CHR & Coast&Islands Community Land Trust, Inc.; Allen Myers, Treasurer CHR; Phil Marks, President Cost& Island Community Land Trust, Inc.; Gladys Schneider Florida Housing Coalition Technical Advisor; Bob Janes, Chairman Lee County Board of Commissioners; Tim Ficker, Vice President, Shell Point; Rita Southern, Sell Point Director of Assisted Living.*

# Surplus Lands for Affordable Housing

Sanibel Island to most is a tropical paradise. Its also where over 4,200 employees commute to work from over 40 miles per day. With the island at build-out, Community Housing Resources, Inc. (CHR) ventured off island to partner with Shell Point Retirement Community to join forces in seeking the donation of surplus land from Lee County's inventory. This parcel was identified in a survey of county lands. With their eye on a 20 acre parcel just off the island's causeway, CHR formed a subsidiary, Island Coast Community Land Trust and signed a two year exploratory agreement with Shell Point to develop a variety of housing types from to serve both island and Shell Point workers who are burdened by lengthy commutes and a shortage of affordable housing. CHR is applying for a Predevelopment Loan and receiving technical assistance from the Florida Housing Coalition to complete its due diligence and engineering work on the surplus county land.

**BY GLADYS SCHNEIDER  
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**I**t is a year since Omnibus Affordable Housing Bill (HB 1363) created what is commonly known as the surplus lands bill. We are quickly approaching July 1, 2007- the date by which all counties and municipalities in Florida are to have completed their respective inventory of public lands to further the development of affordable housing.

The Florida Housing Coalition recently conducted an informal survey to assess how communities are faring with the surplus lands initiative. In our sample, just over one third were finalizing their inventories of available properties to be submitted for commission approval. In one community, the list had already been approved and six homes had been constructed. Many who had made the effort to identify properties had run into title problems or found that most local government owned parcels were unsuitable for housing.

For those who had not begun the inventory, some were unaware of the surplus lands initiative; they did not know about the statutory changes made last year. Our survey yielded more questions to us than we had asked, including "What is that law? What do we do with the list once approved? What is the definition of permanent housing? Is there a sample resolution available? What happens in the event of non-compliance?"

Locating suitable land for affordable housing can be a daunting challenge. But surplus public land is a valuable resource and it is essential to have in place guidelines to ensure that that these parcels are properly identified and put to use for affordable housing. The surplus lands initiative is a strategy for local governments to implement the housing elements of their comprehensive plans and will dovetail neatly with the work of the Advisory Committees which had new life breathed into them in the 2007 Legislative session, see article on page 30.

## THE SURPLUS LANDS FOR AFFORDABLE HOUSING LAW

To begin- here is the law (combined for counties and municipalities, broken apart, bulleted, and numbered for ease of reading). See Section 125.379, Florida Statutes for counties and Section 166.0451, Florida Statutes for municipalities:

By July 1, 2007, and every 3 years thereafter, each county and municipality shall prepare an inventory list of all real property within its jurisdiction to which the county or municipality holds fee simple title that is appropriate for use as affordable housing.

- The inventory list must include the address and legal description of each such property and specify whether the property is vacant or improved.
- The governing body of the county or municipality must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing.
- Following the public hearing, the governing body of the county or municipality shall adopt a resolution that includes an inventory list of such property.
- The properties identified as appropriate for use as affordable housing on the inventory list adopted by the county or municipality may be offered for sale and the proceeds:
  - (1) may be used to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing, or
  - (2) may be sold with a restriction that requires the development of the property as permanent affordable housing, or
  - (3) may be donated to a nonprofit housing organization for the construction of permanent affordable housing.

Alternatively, the county or municipality may otherwise make the property available for use for the production and preservation of permanent affordable housing. For purposes of this section, the term "affordable" has the same meaning as in s. 420.0004(3).

## FLORIDA HOUSING COALITION RECOMMENDATIONS

There are at least three components to the surplus lands for affordable housing initiative. First is the identification of properties that are appropriate for use as affordable housing. The second is remediation efforts to make properties suitable for affordable housing. The third is disposition of those properties for affordable housing. The Florida Housing Coalition recommends that comprehensive land banking guidelines be developed to ensure an effective program. The following is a brief description of the process of creating a dedicated land program. A land bank is both an inventory and functional program to identify, remediate, and dispose of publicly (and privately) owned land suitable for affordable housing. The land bank is an ongoing program; to be truly effective it must receive staff resources and become an integral part of the housing planning process.

### LAND BANK GOALS

The goals of land bank program may vary, but in general the following would be appropriate:

- Return properties with liens or title problems to the tax rolls and productive use
- Create a permanent stock of affordable housing
- Reduce the cost of development of affordable housing
- Create mixed income neighborhoods
- Improve the quality of life in redevelopment areas through removal of blight
- Improve the economic health of the community by ensuring that workers can reside near their places of employment

### ACTION PLAN

An action plan can be developed to guide the formation of a land bank. This could involve the establishment of an oversight committee or a sub-committee. Staff will need to be dedicated to assist with the program. An Action Plan might include the following steps:

- Appoint an oversight committee or ask the affordable housing task force to initiate the land bank.
- Appoint staff to implement the program.
- Prepare an inventory of all publicly owned land.
- Review all outstanding code liens.
- Review list of properties available for taxes
- Consider inclusion of escheated properties.
- Compile properties into a spreadsheet format that includes the parcel identification, legal description,

address, ownership, site dimensions, known tax or code liens, type of deed (tax or otherwise) current zoning and land use and a comment on suitability.

- Solicit offerings of properties from the private sector; conduct due diligence, add to Land Bank for future purchase consideration.
- Categorize or prioritize parcels for quiet title action.
- Provide funding for legal services to conduct legal proceedings.
- Hold annual dispositions by grouping of parcels identified as suitable.
- Solicit proposals from qualified non-profit housing partners.
- Convey parcels to projects that can be occupied within 24 months with appropriate long term affordability through land trust, deed restrictions or mortgages.

Greater commitment to finding or creating appropriate parcels can render the surplus lands initiative more successful. For example, oftentimes, local government obtains title to environmentally sensitive properties for conservation, but not all the land obtained in a particular transaction is environmentally sensitive or important for conservation. In that instance, lands for affordable housing may be derived from separating non-sensitive lands from environmental acquisitions.

## REMEDIATION

Just as local governments have facilitated first time homeownership with credit repair and homebuyer clubs to get buyers ready for first time homeownership, so can local governments facilitate putting publicly owned lands into use for affordable housing with programs to remediate issues like title problems. Clearing up credit issues and clearing up title issues both take some time and effort and both are important programs for furthering affordable housing.

Land Bank activities can also include acquisition of abandoned or tax foreclosed properties. Some communities that have large platted lands may hold title to hundreds of lots that have escheated to the county. Sarasota County was one such jurisdiction. Some of these were sold to raise funds for public projects and some were dedicated to affordable housing. There are special legal procedures for returning escheated properties to the tax rolls, which is why the city or county attorneys are essential partners in this process, as

well as title clearing efforts.

**Publicly owned lands are reviewed to identify parcels that are not earmarked for other projects. Each parcel is reviewed for its appropriateness including the following:**

- environmental concerns
- title problems
- size and dimensions
- access to roadways
- presence of utilities
- land use and zoning

In cases where lots located within a municipality have escheated to the county, special legal procedures apply. In cases where the property has escheated pursuant to F.S. 592(3) the county is required to convey the property to the city in which the land is located but only if certain conditions apply. In the event the city does not accept title to the property, the disposition of the property would be at the county's discretion. This underscores the importance of a policy for affordable housing land banking.

## DISPOSITION

The disposition of properties identified as appropriate for affordable housing use should proceed as quickly as practicable once the inventory is adopted by local government resolution. This will entail establishing priorities for disposition. For example, parcels may be reserved for those recipients who are part of ongoing affordable housing partnerships. Projects assisting extremely low, very low, low, or moderate income households are all eligible, but local government may decide it is best to prioritize use for those most in need or for uses identified as priorities in the comprehensive plan. Local governments throughout Florida are currently faced with the displacement of mobile home park residents; putting public surplus lands into the hands of a nonprofit to provide permanent housing for displaced mobile home park residents may be ideal for many communities.

Generally, the use and disposition of surplus lands should further the goals of the Local Housing Assistance Plan and the Housing Element of the Comprehensive Plan. This program will work best with an enthusiastic legal team, a vibrant housing development program, and plenty of patience.



If your community has not begun the inventory process or would benefit from technical assistance, the Coalition is available for on-site assistance in the design and implementation of your surplus land inventory and policies. For more information, call the Florida Housing Coalition at **1-800-677-4548**.