

LEE COUNTY ORDINANCE NO. 24-XX

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, REPEALING AND REPLACING ORDINANCE 09-25, RELATING TO THE ACQUISITION AND DISPOSITION OF REAL PROPERTY UNDER HOUSING AND URBAN DEVELOPMENT FUNDED HOUSING PROGRAMS ADMINISTERED BY LEE COUNTY; PROVIDING FOR AN ALTERNATIVE TO SUBSECTIONS (1) AND (2) OF SECTION 125.35, FLORIDA STATUTES; PRESCRIBING DISPOSITION STANDARDS TO BE USED BY THE COUNTY IN SELLING AND CONVEYING REAL PROPERTY PURSUANT TO HUD FUNDED HOUSING PROGRAMS; PROVIDING FOR IMPLEMENTING RESOLUTIONS; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY; CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (the "Board") is the governing body in and for Lee County, a political subdivision and Charter County of the State of Florida ("County"); and

WHEREAS, the County is a recipient of grant funds from the United States Department of Housing and Urban Development (HUD), including, but not limited to Neighborhood Stabilization Program (NSP), Community Development Block Grant – Disaster Recovery (CDBG-DR), Community Development Block Grant (CDBG), and HOME Investment Partnership (HOME); and

WHEREAS, the County also undertakes acquisition, rehabilitation, resale, and transfer of properties to provide income eligible households access to safe and affordable housing options using Federal funds; and

WHEREAS, the funds are made available to the County under the grant agreement(s) which must be implemented pursuant to federal rules and regulations; and

WHEREAS, the grant agreement(s) and applicable federal rules and regulations provide the standards and conditions for the acquisition, improvement, and disposition of properties; and

WHEREAS, state law provisions pursuant to Section 125.35(1) and (2), Florida Statutes, and the federal rules and regulations are not always directly compatible; and

WHEREAS, Section 125.35(3), Florida Statutes, provides that the County may enact an ordinance providing for an alternative method for the acquisition and disposition of real property; and

WHEREAS, in order to comply with federal standards relating to acquiring properties and conveying said properties in accordance with the applicable grant agreement(s), and the federal rules and regulations, the Board has previously adopted Ordinance 09-25 as an alternative to the provisions of the cited state law requirements; and

WHEREAS, the Board has determined that it is in the County's best interests to repeal and replace Ordinance 09-25 with updated standards in compliance with federal law.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA THAT:

SECTION ONE: REPEAL AND REPLACEMENT OF ORDINANCE

Lee County Ordinance 09-25 is hereby repealed in its entirety and the following is hereby adopted, with the above recitals incorporated herein by reference:

Section 1. Acquisition of Residential Properties

- A. This Board hereby authorizes the County Manager, or their designee, to execute sales contracts in accordance with established purchasing procedures and all documentation necessary to complete purchase of residential properties within Lee County.
- B. County staff are required to adhere to the funding requirements to establish the minimum purchase and/or sales price for subject properties. County staff are authorized to acquire property for programs based on the following conditions:
 - 1. Staff shall utilize a form of agreement acceptable to the department overseeing the grant funds being used for purchase, County Lands, Lee County Administration, and the County Attorney's Office for each property acquired.
 - 2. Staff will coordinate all aspects of the acquisition process, including conducting due diligence on each property, negotiation of the ultimate acquisition price, and closing of the real estate transaction.
 - 3. Properties shall be acquired in the name of Lee County, a political subdivision of the State of Florida, unless a different ownership is specifically authorized by the Board of County Commissioners.

Section 2. Conveyance of Acquired Properties

The Board authorizes the County Manager, or their designee to execute sales contracts in accordance with established purchasing procedures and all documentation, with exception of County Deeds, necessary to complete sale or transfer of properties. The Board authorizes the Chairman to execute County Deeds. Federal guidelines and Lee County policies and procedures provide for the eligibility and qualification standards addressing the disposition of acquired properties. County staff will adhere to these requirements to ensure property is conveyed for an eligible use to an eligible party.

To the extent practicable, HUD assisted residential properties that are being sold by the County shall be financed through conventional or other private-sector mortgage financing. Residential properties acquired by the County through HUD grant funding may be sold to individuals meeting the income and qualification criteria or conveyed to a unit of general local government or non-profit organization, as required by the program and specified in program guidelines.

If the HUD assisted property is being sold to income eligible home buyers, the following requirements apply:

- A. Preference shall be given to buyers who also meet credit criteria of private lenders providing home mortgages to eligible home purchasers. Nothing in this Ordinance, however, is intended to preclude the granting of down-payment assistance or other assistance available through the County or any other public agency for an eligible buyer under any such assistance program.
- B. Notice of the availability for sale of HUD funded properties shall be through County staff and may include the use of private-sector realtors and such realty-based services as the multiple listing service. In addition, Lee County staff shall make information regarding program guidelines and eligibility known to the citizens of Lee County through educational outreach programs established by the department administering the grant funds or not for profit organizations. Interested applicants will be encouraged to contact the responsible County department or other source deemed appropriate by County staff who has access to the list of homes for sale and home loan eligibility criteria so that prospective home purchasers can qualify based on income criteria and credit worthiness for private mortgage financing.
- C. Criteria applicable to the selection of a person to whom County properties shall be conveyed shall be as set forth herein utilizing the income requirements set forth in the federal regulations, approved Action Plans, local policies and procedures, private lender financing program requirements, and eligibility and qualifications of persons for other public sector financial assistance.
- D. Qualifying purchasers will be notified by responsible County department staff or staff of the not-for-profit organization(s). Potential purchasers would be "assigned" to a particular property on a first come, first considered basis. Upon submittal of reasonable qualification paperwork, said property shall be identified and removed from "available" list which will be retained by the Department of Human Services. Other persons expressing interest in a particular property will be advised by the responsible department of other properties available and will be informed of the application and qualification process(es).

Section 3. Minimum Criteria to be followed by Staff with regard to Conveyance of HUD Assisted Properties

To meet the policy and time frame obligations of the HUD funded grant programs and associated grant agreement(s), the following procedures will be

followed with regard to the disposition and conveyance of properties. The steps to be followed may include the following, depending on funding requirements:

- A. If the property is being resold to an eligible home buyer:
 - 1. County staff will market homes to potential home buyers through a variety of public and private resources, including the local Multiple Listing Service (MLS), the Housing Facilitation Agencies, the Lee County website and other public and private community facilities frequented by the public. County staff, not for profit organizations and private realtors shall also make program guidelines, eligibility considerations, target areas, and buyer qualification criteria made known to public and private organizations who may present buyers of particular properties to County staff.
 - 2. The sale price of the assisted property shall be the current appraised value, or less, as required by program policies or grant agreement(s).
 - 3. All properties sold shall be sold to individuals or households whose income does not exceed the limit specified in federal regulations, program policies, or grant agreement(s).
- B. The Board reserves the right under this ordinance to convey properties to qualified non-profit or units of general local government organizations for reduced or no monetary consideration if the transfer is allowed by federal regulations, approved action plan, program policies or grant agreements.

Section 4. Implementing Resolutions Authorized and Intent

The Board of County Commissioners hereby reserves unto itself the power, right and authority pursuant to this Ordinance to direct staff through future implementing resolutions or procedures with regard to the acquisition, sale, disposition and conveyance of properties assisted with HUD funds provided to Lee County. This Ordinance is intended to implement provisions of HUD funded affordable housing programs to promote affordable housing opportunities for low- and moderate-income households and shall be implemented in accordance with the Lee County Comprehensive Plan and Land Development Code.

SECTION TWO: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of other lawfully adopted ordinances or statutes, the most restrictive requirements will apply.

SECTION THREE: SEVERABILITY

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, it is the Board's intention that such portion will become a separate provision and will not affect the remaining provisions of the ordinance. The Board further declares that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS

The Board intends that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FIVE: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

[The remainder of this page intentionally left blank.]

Commissioner _____ made a motion to adopt the foregoing Ordinance, seconded by Commissioner _____. The vote was as follows:

Kevin Ruane	_____
Cecil L Pendergrass	_____
Raymond Sandelli	_____
Brian Hamman	_____
Mike Greenwell	_____

DULY PASSED AND ADOPTED this _____ day of _____, 2024.

ATTEST: KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
DEPUTY CLERK

BY: _____
CHAIR

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

BY: _____
COUNTY ATTORNEY'S OFFICE