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CARMEN A. TRUTANICH
City Attorney

REPORT NO. R09-0248

JUL 13 2009

REPORT RE:

DRAFT ORDINANCE AMENDING AND ADDING PROVISIONS TO ARTICLE 4 OF CHAPTER 1 OF DIVISION 7 OF THE LOS ANGELES ADMINISTRATIVE CODE TO PROVIDE FOR IMPLEMENTATION OF THE DEPARTMENT OF GENERAL SERVICES' "OWN A PIECE OF LOS ANGELES" (OPLA) INITIATIVE FOR FISCAL YEAR 2008-09 CONCERNING THE SALE OF SURPLUS CITY-OWNED REAL PROPERTY REMNANTS

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 07-1894

Honorable Members:

Pursuant to your request, this office has prepared and transmits for your consideration the attached draft ordinance, approved as to form and legality. The draft ordinance provides a streamlined process for direct sales of City-owned surplus real property remnants to adjoining property owners only, in lieu of the current process which requires an authorizing ordinance for each sale. The draft ordinance amends and adds provisions to the Los Angeles Administrative Code, authorizing the Department of General Services (GSD) to directly sell at fair market rates, to adjoining property owners only, the City's small or inaccessible pieces of surplus land generally incapable of development. Each individual sale requires approval by the Municipal Facility Committee (MFC) and is subject to approval as to form by the City Attorney.

Background and Summary of Ordinance Provisions

Existing law provides that Council approval is required for individual sales of City-owned real property. In response to a series of Controller's audits of GSD's

Asset Management Division, GSD initiated discussions with the City Attorney, City Administrative Officer and Mayor's staff to develop the "Own a Piece of LA" (OPLA) initiative, designed to partially meet the Controller's audit recommendation that the City divest itself of its surplus City-owned real property portfolio. This initiative was approved by Council (CF 07-1894) and concurred in by the Mayor.

OPLA streamlines the processing for direct sales of remnants, defined generally as the all cash sale of smaller properties, to adjacent property owners. It authorizes the Department to directly sell these properties subject to approval of each sale by the MFC, and approval as to form by the City Attorney.

Pursuant to your request, the draft ordinance amendment incorporates the requested provisions and makes other technical corrections. A summary of the additions and amendments follows:

1. Section 7.27.1 of the LAAC is added to define, and add a streamlined process for, the direct sale of remnant properties. A remnant property is generally defined as one that is less than 5,000 square feet and not a legal lot size, or less than 10,000 square feet with no record access, provided it is not adjacent to specified types of publicly-owned property. The new section allows the Department to sell such properties, subject to approval of the MFC (and by the City Attorney as to form) to adjacent property owners. The sale must be for cash and for fair market value. If there is more than one adjacent property owner, the Department will utilize a competitive process, using price as the criteria;

2. In addition, the ordinance amends various sections of the LAAC to modify existing surplus property sales procedures to accommodate the new process for direct sales of remnants;

    a. Sections 7.22 and 7.27 of the LAAC identify the required departmental reviews and other procedures necessary before the Council may determine that real property proposed for sale is no longer required for use by the City, and that the public interest and necessity requires its sale. This Section now authorizes the MFC to make this determination in lieu of Council, for direct sales of remnants;

    b. Subsection (a) of Section 7.22 of the LAAC previously provided that the GSD shall recommend a minimum sales price to Council. This Section has been amended to provide that for direct sales of remnants, the recommendation shall be made to the MFC; and

    c. Subsection (d) of Section 7.22 of the LAAC previously provided that in cases involving the direct sale of City owned property, the

City Administrative Officer (CAO) shall review the proposed sale and recommend to the Council upon its propriety. This Section excludes direct sales of remnants from the requirement. New Subsection (e) of Section 7.22 of the LAAC is added to provide that for direct sales of remnants, the Department of General Services shall review the proposed sale and recommend to the MFC upon its propriety.

Council Rule 38 Referral

Pursuant to Council Rule 38, copies of the draft ordinance were sent to the GSD and the CAO, with the request that their comments, if any, be presented directly to you when you consider this matter.

California Environmental Quality Act (CEQA)

Prior to adopting this ordinance, you should make a finding under CEQA. Since adoption of this ordinance will not result in any reasonably foreseeable change to the physical environment, you may find that it is exempt from CEQA under State CEQA Guidelines 15061(c)(2) and (3) because it does not constitute a project.

If you have any questions regarding this matter, please contact Deputy City Attorney Annette Bogna at (213) 978-8175. She or another member of this office will be available when you consider this matter to answer any questions you may have.

Terms and Conditions for Remnant Sales

Consistent with the provisions of this ordinance, it is necessary that your Honorable Body approve the Title Transfer Instructions (Escrow) for the OPLA Program and direct that they be made a part of Council File No. 07-1894.

Sincerely,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

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Transmittal
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ORDINANCE NO. _____

An ordinance amending and adding provisions to Article 4 of Chapter 1 of Division 7 of the Los Angeles Administrative Code to provide for implementation of the "Own a Piece of Los Angeles" (OPLA) Program concerning the sale of City-owned remnant surplus properties.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. The first unnumbered paragraph of Section 7.22 of the Los Angeles Administrative Code is amended to read:

Before the Council, or the Municipal Facilities Committee for the direct sale of "remnant" properties, determines that real property proposed for sale is no longer required for the use of the City and that the public interest or necessity require its sale, the proposed sale shall be considered as follows:

Sec. 2. Subsection (a) of Section 7.22 of the Los Angeles Administrative Code is amended to read:

Sec. 7.22. Recommendations Required of City Departments.

(a) The Department of General Services shall determine whether the City owns a salable interest in the real property, shall appraise said real property at its fair market value; and shall recommend a minimum sale price to the Council or the Municipal Facilities Committee, as applicable.

Sec. 3. Subsection (d) of Section 7.22 of the Los Angeles Administrative Code is amended to read:

(d) In cases involving the direct sale of surplus City-owned property, except "remnants" as defined in Section 7.27.1(a), the City Administrative Officer shall review the proposed direct sale and recommend to the Council upon its propriety.

Sec. 4. Subsection (e) is added to Section 7.22 of the Los Angeles Administrative Code to read:

(e) In cases involving direct sales of City-owned "remnants" as defined in Section 7.27.1(a), the Department of General Services shall review the proposed sale, and shall recommend to the Municipal Facilities Committee upon its propriety. Thereafter, the Municipal Facilities Committee may determine that the public interest or necessity require completion of the sale and authorize it, including the immediate opening of

escrow. In the event of such a determination by the Municipal Facilities Committee with respect to the sale of a "remnant" as defined in Section 7.27.1(a), the Municipal Facilities Committee may authorize the execution of a deed or other instrument necessary to effectuate the sale at and for the fair market value of the property as appraised by the Department of General Services, and upon the terms and conditions contained in the document entitled Title Transfer Instructions (Escrow) approved by the City Council and made a part of Council File No. 07-1894. Any substantive deviations from those terms and conditions, as determined by the City Attorney, shall require approval by the City Council by ordinance.

Sec. 5. Section 7.27 of the Los Angeles Administrative Code is amended to read:

Sec. 7.27. Private Sale.

The Council, or the Municipal Facilities Committee in cases involving "remnants" as defined in Section 7.27.1(a), may determine that the public interest or necessity require the sale, conveyance or exchange of real property owned by the City or any City department, of the quitclaiming by the City or by any City department, of any interest in real property without notice of sale or advertisement for bids. In the event of this determination, the City Council may, by ordinance authorize the execution of a deed, contract or other instrument necessary to effect the sale, conveyance, exchange or quitclaim at and for a price or consideration and upon the terms and conditions to be specified in the ordinance; provided, however, that the ordinance shall be subject to the provisions of Sections 252 and 461 of the City Charter. In the event of such a determination by the Municipal Facilities Committee with respect to the sale of a "remnant" as defined in Section 7.27.1(a), the Municipal Facilities Committee may authorize the execution of a deed or other instrument necessary to effectuate the sale at and for the fair market value of the property as appraised by the Department of General Services, and upon the terms and conditions contained in the document entitled Title Transfer Instructions (Escrow) approved by the City Council and made a part of Council File No. 07-1894. Any substantive deviations from those terms and conditions, as determined by the City Attorney, shall require approval by the City Council by ordinance.

Sec. 6. Section 7.27.1 of the Los Angeles Administrative Code is added to read:

Sec. 7.27.1. Sale of Surplus City-Owned Remnant Property.

Notwithstanding any other provision of this Code to the contrary, City-owned "remnants" under the jurisdiction and control of the Department of General Services may be sold by private sale as authorized by Section 7.27, provided all of the following criteria are met:

(a) Each property subject to sale must be a surplus City-owned "remnant". "Remnant" means real property meeting the requirements of Section 7.22 of the Los Angeles Administrative Code which (A) has less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or less than 5,000 square feet in area, whichever is less, or (B) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state or local agency, that is used for park, recreational, open-space, or low- and moderate-income housing purposes, and is not located within an enterprise zone pursuant to Section 7070 of the California Government Code, nor a designated program area as defined in California Government Code section 7082;

(b) The direct sale must be an all cash transaction and the buyer(s) must pay fair market value for the remnant as determined by an appraisal by the Department of General Services;

(c) The buyer(s) must be owners of an "adjoining property." An "adjoining property" is one which shares a common boundary with the remnant subject to sale;

(d) The Department of General Services shall offer the remnant for sale to all adjoining property owners, and utilize a competitive process to select the buyer(s) using price as its criteria;

(e) The terms and conditions of each sale must be those approved by the City Council in the document entitled Title Transfer Instructions (Escrow) and made a part of Council File No. 07-1894, and must be presented by the Department of General Services to the Municipal Facilities Committee for approval, and shall be approved as to form by the City Attorney; and

(f) Any remnant meeting the criteria set forth in California Government Code section 54221(f) must first be offered for sale to the State in accordance with Government Code section 54220, *et seq.*

Sec. 7. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

_____
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By Annette R. Bogna (ABE)
ANNETTE R. BOGNA
Deputy City Attorney

Date 7/13/09

File No(s). CF No. 07-1894

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TITLE TRANSFER INSTRUCTIONS (ESCROW)

DEPARTMENT OF GENERAL SERVICES
ASSET MANAGEMENT DIVISION
CITY OF LOS ANGELES

Date:
Location:
APN:

On (date), Buyer(s) Name(s) paid (amount) to the City of Los Angeles, representing a 10% deposit for the purchase of a City parcel described below. On or before (date) (60 days from the date of this notice), without penalty, the Purchaser will hand the City of Los Angeles, Department of General Services (GSD) the sum of _____ ($_____), which represents the balance of the purchase price of $_____; for the herein described parcel of land which GSD is authorized to deposit into the account of the City of Los Angeles when GSD holds for the undersigned a Grant Deed to the property described below, executed by the City of Los Angeles.

As provided in Ordinance _____, the Purchaser shall pay for documentary transfer taxes of $_____, all recording fees associated with this conveyance of real property of $_____, policy of title insurance (ALTA) of $_____ providing coverage in an amount not to exceed the purchase price of $_____, and one-half of the escrow fee which is $_____. The associated cost of sale is $_____. The total amount of $_____ is due and payable to the City of Los Angeles within 60 days from the date of this Title Transfer Instructions (Escrow), on or before **date**. Upon receipt of this full amount by 1:00 p.m., GSD shall record the Grant Deed the next business day.

Legal Description of Property: See attached EXHIBIT "A"

The following terms and conditions are included in the Grant Deed:

EXCEPTING AND RESERVING unto the City of Los Angeles, all oil, gas, water, and mineral rights now vested in the City of Los Angeles without, however, the right to use the surface of said land or any portion thereof to a depth of 500 feet below the surface, for the extraction of such oil, gas, water and minerals.

SUBJECT TO covenants, conditions, restrictions, reservations, easements, encroachments, rights and rights-of-way of record or which are apparent from a visual inspection of the real properties.

SUBJECT TO property sold in an "**AS IS**" condition, and without any warranty as to fitness for use, fitness for a particular use, or condition of the property, and that the seller has no obligation to correct any condition of the property, whether known before or after the date of sale.

The Purchaser understands that at this time the property is not subject to ad valorem taxes. An assessment will be made and taxes assessed on the property for the period commencing with the date of recording of the deed.

The full balance of the purchase price and associated purchase costs shall be paid to the City on or before 60 days from the date of Title Transfer Instructions (Escrow). If payment is deferred for more than 60 days, interest at one percent (1%) per month or fraction thereof shall be charged for each month or fraction thereof up to 90 days from the date of Title Transfer Instructions (Escrow). The deed will be accepted, unless these instructions are canceled in writing by either the City or the grantee. If these instructions are canceled by the grantee, the City may, should it determine to do so, retain the sum presently on deposit with the City.

By our signatures below, Purchaser acknowledges and accepts all conditions set forth in these Title Transfer Instructions (Escrow).

_____ Date	_____ Date
Purchaser	Purchaser
Mailing Address:	Phone:
Approved as to Form and Legality: Rockard J. Delgadillo, City Attorney	THE CITY OF LOS ANGELES
By: _____	_____
Date: _____	Date: _____
Name: _____ Deputy City Attorney	_____ Lourdes P. Owen Deputy Director Asset Management Division Department of General Services