

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO: 4561

ORDINANCE COUNCIL SERIES NO: _____

COUNCIL SPONSOR: GOULD/DAVIS

PROVIDED BY: LEGAL DEPARTMENT

INTRODUCED BY: STEFANCIK

SECONDED BY: BURKHALTER

ON THE 5 DAY OF MAY, 2011

ORDINANCE RESTATING AND REENACTING SECTION 2-007.01 AND SECTION 02-007.02 OF THE ST. TAMMANY PARISH CODE OF ORDINANCES REGARDING THE PROCEDURES TO SELL ADJUDICATED PROPERTY.

WHEREAS, St. Tammany Parish has the need to properly oversee the maintenance and upkeep of all real estate and/or immovable property in its possession; and

WHEREAS, St. Tammany Parish is charged with the responsibility to take all reasonable steps for the protection of the public with respect to public property, together with all health and safety issues that may be reasonably affected thereby; and

WHEREAS, certain properties are otherwise sold for taxes by the Parish of St. Tammany and/or the Sheriff of St. Tammany Parish on at least an annual basis, and, as a result of said sales and/or auctions, certain properties are adjudicated or otherwise transferred to the Parish of St. Tammany; and

WHEREAS, Louisiana law provides for the sale of these adjudicated properties by the Parish of St. Tammany; and

WHEREAS, St. Tammany Parish desires to amend and restate its ordinances regarding the sale of adjudicated property.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS: that the Parish Code of Ordinances, Chapter 2, Sections 2-007.01 and 2-007.02 be amended and restated as follows:

2-007.01 Sale of Adjudicated Property

1. Definition

For the purposes of this section, adjudicated property shall be defined as property that has been procured through legal process that warrants the right of the parish governing authority to seek property for non-payment of property taxes or for any other reason relevant to lien, debts or donation as prescribed by statutory Louisiana law.

2. Sale of Adjudicated Property After Expiration of Redemption Period

After declaration of the Council by resolution that the property is deemed surplus, the Office of the Parish President may, after the expiration of period fixed by law for redemption of adjudicated property, sell the property in the manner specified within this section.

3. Advertising Sale of Adjudicated Property After Expiration of Redemption Period

~~A. Reserved. At least one hundred twenty (120) days prior to the post-adjudication sale, the political subdivision shall cause notice to be given to the owner, the mortgagee, and any other person who may have a vested or contingent interest in the property, or who has filed a request for notice as provided in Subsection B hereof, as specifically identified in the mortgage records, conveyance records, probate and civil suit records of the parish in which the property is placed. No further notification shall be required upon any person acquiring a vested or contingent interest subsequent to the recordation of the notice provided herein in the conveyance records of the parish in which the property is located.~~ -B. Any person

desiring to be notified in the event specific immovable property will be subject to a post-adjudication sale may file a request for the notice provided in Subsection A in the mortgage records of the parish where the immovable property is located.

~~Whenever the parish desires to sell any adjudicated property, the sale shall be made only after advertisement in the official journal of the parish once a week for the four consecutive weeks. Said advertisement shall be paid by the parish desiring to sell the property and shall display the terms and conditions of the proposal submission process and subsequent sale of the property.~~

~~The sale shall be made no sooner than thirty (30) days after the date of the publication of the first notice. The advertisement shall constitute complete notice to all persons in any manner interested in the property.~~

Except as otherwise provided by Louisiana law, The only other public notice required shall be the placement of a sign(s) that shall be posted on or in the vicinity of the property to be auctioned, describing the proposed auction, and the deadlines associated with the terms and conditions of the auction. Said sign(s) shall be posted in the manner specified herein at least thirty (30) days prior to the auction. Misplacement or theft of the sign shall not invalidate the sale of the adjudicated property.

4. Appraisal and ~~Legal Research~~ of Property Required:

The ~~Office of the Parish President~~ parish, at its option, may have ~~shall be responsible for having~~ any adjudicated property offered or solicited for sale, appraised by an appraiser licensed in Louisiana to determine competent and certified agent based on the fair market value of said property. In addition, ~~the parish shall also conduct appropriate legal research to determine the extent, if any, of any taxes, charges, liens, assessments or any other forms of indebtedness on the property offered for sale.~~

5. Minimum acceptable bid; adjudication to tax debtor or his representatives on payment of taxes and assessments

A. The property shall be adjudicated to the last and highest bidder for cash, payable in current money of the United States, at the time of the adjudication. ~~The governing body of the parish or municipality may appoint a committee of recognized and qualified realtors to appraise and value the property, subject to the final approval of the governing body.~~ If the Office of the Parish President governing body elects to have the property appraised, no bid shall be accepted which is less than two-thirds of the appraised value, if no appraisal is requested by the governing body, then no bid shall be accepted or sale made for a lesser ~~lessor~~ amount than the total amount for which the property was adjudicated, including all interest, costs, penalties and subject to any state, parish and levee district taxes and to all subsequent taxes and paving or other local improvement charges.

B. At any moment before the actual adjudication takes place, whether the property was appraised or not, if the tax debtor, his heir, administrator, execution, assign, or successor, pays to the tax collector of the parish ~~or municipality~~ all taxes or , charges imposed pursuant to R.S. 33:1236, or paving or other local improvements assessments due upon the property, including all interest, costs, penalties, taxes or , charges imposed pursuant to R.S. 33:1236, or paving or local improvement assessments which have accrued since the date when the property was adjudicated to the parish ~~or municipality~~ to the tax debtor, his heirs, administrator, executor, assign, or successor, as the case may be, by preference over all other bidders, though they may bid larger sums.

6. Reserved. ~~Appraisal of property failing to sell percentage of appraised value as minimum price on second sale~~

~~When any property above referred to has been once advertised and offered for sale, and has failed to sell, then the governing body of the parish or municipality may have the property appraised in accordance with R.S. 33:2868 and advertise the property for sale a second time in the same manner as herein above provided. In the second advertisement the minimum price which will be accepted for the property shall not be less than two thirds of the appraised value of the property as approved by the governing body. If the governing body previously had the property appraised, the minimum price in the second advertisement shall not be less than one third of the appraised value. The minimum price need not equal the full tax obligation, or assessments due for charges imposed pursuant to R.S. 33:1236, or paving or other local~~

~~improvement assessments due by the property to the parish or municipality. Such sales shall be made subject to any state, parish or levee district taxes.~~

7. Reserved. Deed of Sale to Highest Proposal Submitted

~~The tax collector making the sale shall deliver to the purchaser who has complied with his bid by paying the price of the adjudication to him the deed of the sale executed before the city notary who shall charge therefor the price of five dollars (\$ 5.00), plus the cost of recordation of the deed.~~

8. The act of sale shall be without any warranty or recourse whatsoever (including warranty of title), even for the return or any reduction of the purchase price, but with subrogation to all rights and actions of warranty that Parish of St. Tammany may have. These waivers of warranty shall be self-operative regardless of whether the waivers are contained in the act of sale, regardless of whether they are clear and unambiguous, and regardless of whether they are brought to the attention of the acquiring person. The Parish of St. Tammany shall reserve all oil, gas and other mineral rights in and to the property to be conveyed, but shall convey the surface rights of the said property.

9. The purchaser shall be required to obtain an owner's policy of title insurance insuring purchaser's title to the property purchased, at purchaser's expense.

2-007.02 Adjudicated Real Estate/Immovable Property

1. That any and all real estate and/or immovable property that is otherwise adjudicated in the future or previously has been adjudicated to the Parish of St. Tammany in any previous year will now be subject to the following program.

~~2. Reserved. All such real estate and/or immovable property described hereinabove are immediately transferred to the Office of the Parish President for administrative purposes.~~

3. The Office office of the Parish President shall hereinafter be charged with the duty and responsibility to develop a program of reclamation of such property, including but not limited to identification of affected property, retention of necessary staff to place any program into effect, establishing a fee schedule, and oversight of all programs, together with advertisement, selling such properties where necessary and reasonable, all as per law.

4. The Office of the Parish President is specifically authorized to establish such an administrative program to immediately address the magnitude of properties currently adjudicated to the Parish since 1921. Properties adjudicated to the State of Louisiana prior to the tax year of 1993 shall likewise be included in this program. The Office of the Parish President is likewise exclusively vested with the power and authority to seek out and search all properties since 1921 and to formulate, in conjunction with the Louisiana State Land Office, a plan of identification, redemption, listing, sale or whatever else is necessary to dispose of such property.

5. The Office of the Parish President is authorized ~~the power to~~ negotiate terms and conditions of any sales, enter listing agreements, sign purchase agreements, and such other actions necessary to transfer the Parish's interest in and to such properties, all as per law.

6. Funds received from the sale of such properties shall be dedicated to the general fund.

7. The Office of the Parish President shall adhere to the requirements of the Parish Charter as to the sale of such properties.

8. The Office of the Parish President shall have the option to exercise the method and/or procedure under this Ordinance necessary to dispose of such properties as per (1) the current Parish Ordinance or (2) that which is delineated in state law as to the sale of adjudicated property. surplus property, including but not limited to Louisiana Revised Statute 33:4712 et seq., R.S. 33:1236 et seq., R.S. 47:2251 et seq., R.S. 33:1321 et seq., R.S. 33:2861 et seq., R.S. 48:441 et seq., and such other requirement of state law.

REPEAL: All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY: _____ SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 2 DAY OF June, 2011; AND BECOMES ORDINANCE COUNCIL SERIES NO _____.

MARTIN W. GOULD, JR., COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

KEVIN DAVIS, PARISH PRESIDENT

Published Introduction: APRIL 28, 2011

Published Adoption: _____, 2011

Delivered to Parish President: _____, 2011 at _____

Returned to Council Clerk: _____, 2011 at _____