

June 16, 2008

MEMORANDUM

TO: Prospective Purchaser

FROM: Larry D. Book, Special Assistant Parish Attorney
Troy Humphrey, Assistant Parish Attorney

RE: **Sale of Abandoned, Adjudicated Property**
See our web site at <http://www.brgov.com/www.brgov.com/adjudicated>

BECAUSE THIS IS A FAIRLY NEW PROCESS IT IS IMPORTANT THAT YOU CONSULT A PRIVATE ATTORNEY REGARDING THE METHOD AND PROCEDURES OF THE SALE AND THE RELEVANT STATUTES. IF YOU PLAN TO SELL OR MORTGAGE THE PROPERTY IN THE FUTURE, YOU WILL NEED TITLE INSURANCE AND ONLY A PRIVATE ATTORNEY CAN PROVIDE THIS.

In response to your request for information regarding the purchase of property adjudicated for taxes to the Parish, the City-Parish has adopted the following procedure, in accordance with LSA-R.S. 33:4720.11 through 4720.19.

It is recommended that you first determine that the property in which you are interested has in fact been adjudicated to the Parish of East Baton Rouge for past due property taxes. Brian Wilson, the East Baton Rouge Parish Assessor, has recently compiled and provided to all of the Parish Libraries an index of the adjudicated property which is indexed alphabetically by subdivision name. This index will also provide you the name of the tax debtor, the date of the transfer and the taxing ward and section of the property. The Assessor has also provided each of the Parish Libraries an index that provides additional information, but this is indexed alphabetically by name of tax debtor for each taxing ward. If you have only a municipal address of the property, you may need to first determine the property's legal description by reviewing the Clerk of Court's Street Name Cross Index to determine the property's lot number, square number (if applicable) and subdivision name.

A tax debtor has an absolute right to redeem his property for a period of three years from the date the property was adjudicated to the Parish. You should consider this if your purchase of the property is going to occur before the end of this three year period.

The above Louisiana Revised Statutes only authorizes the Parish to sell adjudicated property that is also "vacant or not lawfully occupied". LSA-R.S. 33:4720.12 defines, "Abandoned property" means immovable property that has been adjudicated to a political subdivision for nonpayment of taxes, and which property is vacant or not lawfully occupied. The term "vacant or not lawfully occupied" shall include but not be limited to any premises which is not actually occupied by its owner, lessee, or other invitee, and has been left

unsecured or inadequately secured from unauthorized entry to the extent that the premises may be entered and utilized by vagrants or other uninvited persons as a place of harborage or any premises which by reason of dilapidation, deterioration, state of disrepair, or other such status is otherwise detrimental to or endangers public safety, health, or welfare." Because this definition of "vacant or not lawfully occupied" is not exclusive, you must decide if the property in which you are interested is "abandoned" and can be sold by the Parish.

Once you have the above information, make a written request to the Property Section of the Office of the Parish Attorney on the attached form, which request should contain all of the following information:

- 1) The legal description of the property you wish to purchase (usually the lot, square, and subdivision name).
- 2) The municipal address of the property.
- 3) The name of the owner in whose name the property was sold (adjudicated) and the year of the tax sale.

A \$500.00 certified check or money order, NO PERSONAL CHECKS OR CASH, for each piece of property made payable to the "Parish of East Baton Rouge" must be included with the form, and a copy of the tax print out which can be obtained from the Sheriff Tax Office, an example is attached. NO REFUNDS WILL BE GIVEN UNLESS THE PROPERTY IS REDEEMED OR PROPERTY PROCEEDS TO BID AND YOU ARE NOT THE HIGH BIDDER OR SOMEONE ELSE COMPLETES THE SALE PROCESS IF YOU DO NOT COMPLETE SAME, NO EXCEPTIONS. This fee is to cover the costs of verifying that the property has been adjudicated to the Parish, determining the amount of property taxes, penalties and interest due, determining the amount of other property liens which might be due the City-Parish, and determining whether the property is surplus or needed for public purposes. The Department of Public Works will not make any determination as to whether the property is "vacant or not lawfully occupied" and the Parish Attorney's Office will not advise you as to this status.

Once the property is deemed not to be needed for a public purpose (only the Metropolitan Council can declare the property surplus) and the appraisal has been done, you will be notified of the appraised value, the amount of taxes and public liens. You will also be forwarded a blank offer letter to be signed and returned if you wish to make an offer on the property. Offers do not have to equal or exceed either the appraised value or the amount of taxes and public liens, but these amounts will be considered by this office, the Finance and Executive Committee and the Metropolitan Council in deciding to recommend and/or accept your offer. **OFFERS MUST DESIGNATE THE AMOUNT BEING OFFERED ON EACH PIECE OR PARCEL OF PROPERTY, UNLESS A STRUCTURE IS LOCATED ON MULTIPLE PARCELS WHICH WOULD REQUIRE THE PARCELS TO BE SOLD AS A SINGLE UNIT.** Once an offer is received, this office will introduce an ordinance to the Metropolitan Council requesting that the property be sold in accordance with Chapter 13-A of Title 33 of the La. Revised Statutes and LSA-R.S. 33:4712. This last statute requires that the request to have the property declared surplus and **the amount of your offer be published in The Advocate.** If there is no opposition or higher offer, this office will recommend that your offer either be

accepted or rejected by the full Council for action the following Wednesday.

Anyone wishing to oppose the sale or offer a higher price, on any of the property being offered, is required to be present at the bidding session. Only those parties who have a **\$500 certified check or money order payable to the Parish of East Baton Rouge** for each property they wish to bid on, will be allowed to participate in the verbal bids. The results of the bidding process and the recommendation of this office will then be submitted to the full Council for action the following Wednesday.

If you submit an offer on any property, you are responsible to determine the date and time of the Committee's public hearing and to attend same and to bid higher if needed and if you so desire. Hearings may be continued without prior notice. Notice of the hearing will be published in the legal notice section of The Advocate on the three Tuesdays prior to the hearing.

If you are the high bidder, you should be aware that you are not required to, and cannot pay the amount you bid at either the Committee meeting or at the Metrocouncil meeting. The bid amount can only be paid at the time of closing, which cannot be sooner than 60 days after notice to all parties who have a security or ownership interest in the property and must be within 6 months of the adoption of the ordinance accepting the bid and approving the sale.

If the ordinance is adopted, it will include:

- 1) A requirement that you certify in writing, within thirty (30) days of the adoption of the ordinance, to the Property Section of the Office of the Parish Attorney that you or your agent have examined the mortgage records, conveyance records, probate and civil suit records of East Baton Rouge Parish and that attached to this certification is a written list of names and last known addresses of all owners, mortgagees, 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 LSA-R.S. 33:4720.17 (B), as indicated in those records. Said written certification shall contain an indemnification and hold harmless clause by the purchaser in favor of the Parish of East Baton Rouge, its officers, agents and employees if the purchaser should fail to request notification to an interested party or should incorrectly identify or locate any interested party.
- 2) Purchaser has either done notices himself or has made written request to the Property Section of the Office of the Parish Attorney to notify those persons identified above in accordance with LSA-R.S. 33:4720.17. (Your application fee will cover the cost of three (3) notices by mail and the notice by publication. If

you need more than three (3) certified letters mailed, you will be responsible for paying \$5.00 per letter with certified funds or money order).

- 3) A requirement, that once notice is given you record proof of notice in the conveyance records of East Baton Rouge Parish and provide the Property Section of the Office of the Parish Attorney with stamped copies of the recorded proof on notice. (The Clerk of Court will charge you to record the proof of notice.)
- 4) A requirement that at the time of closing, you certify in writing to the Property Section of the Office of the Parish Attorney that the number of days mandated by LSA-R.S. 33:4720.17 has elapsed since the above required notice was made or attempted and that the property has not been redeemed by the payment of the taxes owed.
- 5) An authorization for the Mayor-President to execute a sale of the property once the mandated number of days has elapsed after notice as required above.
- 6) A requirement that the sale be on a form approved by the Parish Attorney's office and that the sales price be paid by certified funds at the time of the sale. The sale form shall include a reservation of all mineral rights to the Parish, but shall convey all surface rights.
- 7) **A requirement that the sale will be without any warranty whatsoever, even as to the return of the purchase price.**
- 8) A provision that if purchaser should fail to complete the requirements of Section 2 A) and B) of the adopted ordinance within sixty (60) days of its adoption, your rights to purchase the property and the Mayor's authority to sell the property shall cease; and that if all of the requirements of that Section are not completed within six (6) months from the date of the adoption of the ordinance, the Mayor-President's authority to execute an act of cash sale for this property shall cease and any and all rights of the purchaser to this property shall terminate.
- 9) A provision that once a bid has been accepted by the Metropolitan Council, no new bid of a lesser amount will be accepted from the high bidder if the sale is not completed.

YOUR INITIAL CHECK FOR \$500.00 SHALL NOT BE APPLIED TO THE PURCHASE PRICE. YOUR INITIAL CHECK FOR \$500.00 SHALL NOT BE REFUNDABLE IF THE COUNCIL REJECTS YOUR OFFER, OR IF YOU ELECT NOT TO COMPLETE THE SALE FOR WHATEVER REASON. IT SHALL BE REFUNDED TO YOU ONLY IF YOU ARE NOT

THE HIGH BIDDER, OR IF THE TAX DEBTOR REDEEMS THE PROPERTY BEFORE THE SALE OF THE PROPERTY BY THE PARISH.

IT IS STRONGLY RECOMMENDED THAT ALL PROSPECTIVE PURCHASERS CONSULT A PRIVATE ATTORNEY REGARDING THE METHOD AND PROCEDURES OF THE SALE AND THE RELEVANT STATUTES.

LDB:RTW

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IMPORTANT NUMBERS

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| 1. | Parish Attorney's Office | 225-389-3114 |
| 2. | Sheriff Tax Office | 225-389-4810 |
| 3. | Tax Assessor's Office | 225-389-3920 |
| 4. | Map and House Numbering Division | 225-389-3221 |
| 5. | Clerk of Court's Public Information | 225-389-3950 |
| 6. | Citizen Service (weed liens) | 225-389-8680 |
| 7. | Neighborhood Improvement (condemnation) | 225-389-3043 |
| 8. | Mortgage Department | 225-389-3975 |

Adjudicated Property Process Steps List

1. Fill out "Request to Purchase Adjudicated Property" form.
 - A. Make sure the property is vacant and not lawfully occupied;
 - B. Check with the Sheriff's Office to make sure that the property has not been redeemed. Make sure you get a copy of the tax print out to attach to your request form.
 - C. Has the property been adjudicated for at least 3 years? Remember the tax debtor has the right to redeem their property for a period of three years from the date the property was adjudicated;
 - D. Has the process already been started on the property you are interested in? Call our office and speak to someone in the adjudicated property section and see if the process has already been started on the property.

Now ready to start process, turn in "Request to Purchase Adjudicated Property" along with tax print out and a **\$500 certified check or money order ONLY** made payable to the "Parish of East Baton Rouge".

2. In approximately 3 - 6 weeks you will receive a letter from our office regarding the appraisal, taxes owed, and lien info if there are any. You will also receive an "Offer to Purchase" form. Fill out form completely and return immediately to our office.
3. You should contact the adjudicated property division of our office in about 7 - 10 working days to find out when the public bidding session will occur. Mark this date on your calendar. **YOU SHOULD BE PRESENT AND ON TIME!!!**
 - A. At this point, other prospective purchasers can bid on the property assuming they have the proper deposit (**\$500 certified check or money order only**).
4. Show up on bidding session day and time. This is also advertised in the Advocate-Public Section Notice three weeks prior to the date. This is usually only advertised on Tuesdays. An oral bidding session will take place to determine the high bidder. Anyone who is not the high bidder will receive their money back. If the original prospective purchaser is not the high bidder, he will receive a \$500 check from the Finance Department approximately 2 weeks after the bidding session has occurred.

5. If you are the high bidder, assuming the Council accepted your high bid, you will receive a copy of the adopted ordinance and further instructions.

6. At this point, you should follow the detail instructions in trying to find anyone with owner interest or claim to the property. **WE HIGHLY RECOMMEND YOU OBTAIN AN ATTORNEY TO HELP YOU WITH THIS. A TITLE ATTORNEY COULD ALSO PROVIDE YOU WITH TITLE INSURANCE IF NEEDED.**

7. You should return the completed form of interested persons or companies within 60 days from the date of adoption. The \$500 deposit covered your advertisement in the paper and 3 certified letters. If you should need more than three (3) letters, please contact our office as to the amount that should be submitted with your completed form.

8. Our office will mail you a letter letting you know the dates you can close and ask that you pick up the original notices from our office and record them in the Clerk of Court's office.

9. Assuming no one redeems the property within the 60 day prescribed redemption period after notice is given, you may close on the property. You can only close 60 days after notice, but it must be done prior to the 6 months deadline set by the ordinance adoption date. These time deadlines are given to you in the letter described in the section above. Call our office to set up a closing date and time.

10. Show up at the closing date and time with a **certified check or money order for the full amount of the purchase price** approved by the Council. Under no circumstances are partial payments allowed. Be on time and also bring with you extra funds to record the sale in the Clerk of Court's Office.

ATTORNEYS THAT ARE FAMILIAR WITH THE
ADJUDICATED PROPERTY PROCEDURE

1. Michael Uter
8146 One Calais, # 108
Baton Rouge, LA 70809
(225)765-7510

- 2) Joe Perault
7235 Jefferson Hwy
Baton Rouge, LA 70806
(225) 928-1112

3. John E. Seago
Waguespack, Seago and Carmichael
8126 One Calais Avenue
Suite 2 C
Baton Rouge, LA 70809
(225) 766-5805

5. Richard Derbes
Accent Title
3233 South Sherwood Forest Blvd. Suite 203
Baton Rouge, LA 70816
(225) 292-2130

6. Marshall Grodner
McGlinchey, Stafford
One American Place, 9th Floor
Baton Rouge, LA 70825
(225) 383-9000

7. Melissa Miley

3211 Monterrey Dr.
Baton Rouge, La 70814
(225) 926-9415

8. Donnie Floyd
17487 Old Jefferson Hwy
Prairieville, La. 70769
(225) 677-8300
(888) 741-1433

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