



Using Publicly Owned Lands for Affordable Housing

November 1, 2022 2:00 PM Eastern Time



Our Thanks to the Florida Housing Catalyst Program



AFFORDABLE HOUSING CATALYST PROGRAM

**Sponsored by the Florida Housing
Finance Corporation**



we make housing affordable™



Catalyst Training Schedule



The Coalition is Florida's affordable housing training and technical assistance provider.

www.flhousing.org



Logistics for Today's Webinar

- All attendees are muted
- Please type in your questions. We will answer questions throughout the webinar.
- Webinar is being recorded and will be posted to our website
- Handouts



Presenters



Gladys Cook

Resilience and Recovery Director
and Technical Advisor

Cook@flhousing.org

(813) 830-3450



Ashon Nesbitt

Chief Programs Officer and
Technical Advisor

Nesbitt@flhousing.org

(813) 476-4170

THE FLORIDA HOUSING COALITION



Special Guests



Joe Waugh

Director, Codes and Compliance
City of St. Petersburg

Robert Ownby

Housing Property Administrator
City of Jacksonville

THE FLORIDA HOUSING COALITION



A blue speech bubble graphic with a white border and a dark blue shadow, pointing towards the bottom left. The text "Poll: Who's Here?" is written in white serif font inside the bubble.

Poll: Who's Here?

Florida's “Surplus Land” Laws



Affordable Housing can be the “Highest and Best” Use of a Parcel at the Local Government’s Discretion

- Per F.S. 125.35, the Board of County Commissioners has the discretion to deem what is the “highest and best” use for a particular parcel.
- Affordable housing can be the “highest and best” use as determined by the Board of County Commissioners.
- Municipalities can also do so under their county charter or local procedures.



Required Inventory of Land Appropriate for Use as Affordable Housing

- F.S. 125.379 (counties) & 166.0451 (municipalities) are commonly referred to as Florida's "Surplus Lands statutes"
- Every 3 years since July 2007, each Florida county and city **must prepare an inventory list** of all real property owned within its jurisdiction to which the city or county holds fee simple title that is "**affordable for use as affordable housing.**"
- Properties placed on the inventory list may be used for a variety of affordable housing activities.



Placing land on the inventory: What does “appropriate for use as affordable housing” mean?

Florida law does not define what “appropriate for use as affordable housing” means.

This term is left to the discretion of the local government.

BEST PRACTICE

- All parcels the local government owns in fee simple that can be developed for residential purposes should be placed on the inventory.
- If it is appropriate for market-rate housing, it is appropriate for affordable housing.



Placing land on the inventory: Statutory process

1. Inventory list must include the address and legal description of each property and specify whether the property is vacant or improved.
2. The governing body must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing.
3. Following the public hearing, governing body shall adopt a resolution that includes an inventory list of such property.

Once land is placed on the inventory, what's next?

Land on the inventory can be used for a variety of affordable housing purposes.

“Affordable housing” in the surplus land statute is defined as the same meaning in 420.0004(3).

Housing is “affordable” if “monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of the amount which represents the percentage of the median adjusted gross annual income” for households considered to be extremely low-, very low-, low-, or moderate-income households.



Options for Property Placed on the Affordable Housing Inventory

1. Offer for sale and use the proceeds to purchase land for affordable housing.
2. Offer for sale and use the proceeds to increase the local government fund earmarked for housing.
3. Sell with a restriction that requires the development of the property as permanent affordable housing.
4. Donate to a nonprofit housing organization for the construction of permanent affordable housing.
5. Otherwise make available for production and preservation of permanent affordable housing.



Does land have to be on the legally required affordable housing inventory for a local government to sell or lease the land for affordable housing?

No. Counties under F.S. 125.35 have the discretion to sell or lease land for the “highest and best” use regardless of if the land is on the affordable housing inventory. Municipalities, using their home rule authority, can also do so unless a state statute or county charter is in conflict.



If land does not have to be on the statutory affordable housing inventory to be used for affordable housing, what is the purpose of the “surplus lands” statute?

1.Accountability. The act of producing the inventory of lands at least every 3 years requires an analysis of local resources and benefits local affordable housing policy.

2.Guidance. The listed uses in statute provides guidance as to how to use government land for affordable housing purposes.

3.Land Donation Clarity. F.S. 125.35 does not explicitly reference the donation of land for affordable housing. Under the surplus land statutes, land on the inventory can be donated to a nonprofit organization to use as permanent affordable housing.



Takeaways

- Local government can and should use its land resources for affordable housing purposes.
- Affordable housing purposes can include selling or donating land to be built as affordable housing and by selling land at market rate and then using the proceeds for an affordable housing trust fund.
- While land does not need to be on the statutorily required affordable housing inventory to be used for affordable housing, the inventory process can be beneficial to affordable housing goals.

How Do Local Governments Obtain Land?



Local Government Methods of Acquiring Land

- Direct Purchase (using federal, state, and local resources)
- Donation
- Inclusionary Housing Ordinance
- Tax Lien Escheatment
- Tax Lien Foreclosure
- Code Enforcement Foreclosure
- Obsolete Uses

Entities to Work with to Boost Land Resources

- Community Redevelopment Agency (CRA)
- School Board (F.S. 1001.43 – authorizes school board to use surplus land for affordable housing for teachers and other district personnel)
- Private Institutions
 - F.S. 420.615 – Affordable housing land donation density bonus incentives
- Religious Organizations



Methods of Conveyance

Transfer by Deed

Transfer with a land use restriction agreement and/or deed restriction provisions including:

- Affordability period
- Households served
- Compliance monitoring procedures
- Party responsible for qualifying households (developer or housing staff ?)
- Reversion clause if housing is not developed within ____number of years
- Enforcement & penalties for noncompliance



Community Land Trust



Local governments can form or partner with a Community Land Trust (CLT) to:

1. Build permanently affordable housing using donated or discounted government-owned land.
2. Monitor compliance for permanent or long-term affordability of housing units built on government-owned land.



Community Land Trust



Community land trusts are ideal partners for using government-owned land for affordable housing.

1. Through ground lease restrictions, CLT homes are required to be affordable in perpetuity.
2. CLTs are adept at long-term stewardship of land resources.
3. If using down-payment assistance or other government subsidy, CLT homes retain subsidy in the unit. Because the subsidy is retained in the unit instead of recaptured when a CLT home is sold, little to no additional subsidy is needed to house the next homebuyer.



Long Term Lease

- Partner with an organization that can steward long-term affordability.
- Use provisions
- Households served
- Compliance provisions
- Transferability provisions

FHFC RFA Preference

- Local Govt Land Donation does not qualify for Local Government Contribution BUT...
- Ex. RFA 2021-102 SAIL Financing for Smaller Permanent Supportive Housing Developments for Persons with Special Needs
- Qualifying Financial Funding **Preference (tie breaker)**
 - Cash Funding minimum 3 Percent OR
 - **Donation of Land by a Local Government**
 - Show no land cost in application or credit underwriting- land must be donated or will be donated to the Applicant
 - Govt is seller Applicant is buyer, cost is \$10
 - Transaction no more than 12 months prior to application deadline
 - OR Lease Local Govt is Lessor and Applicant is Lessee- payments <\$10 per year
- Also RFA 2021-103 Housing Credit and SAIL Financing to Develop Housing for Homeless Persons



Problem Solving



No Suitable Surplus Land

Environmentally Constrained

Reserved for Stormwater Retention

Reserved for Public Works Projects

Land was bought as part of floodplain mitigation

Brownfields *

Adjacent to industrial or toxic activities

Surplus Land can have Title Issues

Tax reversions- escheated lots- may have liens or other encumbrances

Code Liens

IRS or DOR Liens

Mechanic Liens

Judgments

Lack of Commitment

Surplus land auctioned with
no commitments

Surplus Land Inventory
omissions

Vague procedures

Inventory list buried

Planning for Success



Model Surplus Program

Narrowly focused on the goal of returning land to productive use for affordable housing

Establish land acquisition and evaluation criteria

Intergovernmental and interdepartmental coordination and cooperation

Property profile management and tracking system

Strategic vision

Funding and staffing

Surplus Land Program Design

Budget Considerations

Evaluation Process

Disposition Policies

Application Process

Tracking

Ongoing Acquisition Framework

Site Maintenance Program

Marketing

Funding a Surplus Land Program

Value of recovering properties to stabilize neighborhood and become tax paying

Bond Issue

Tax Recapture

Fines

Sales Proceeds

Surplus Land Policies and Procedures

Acquisition policies and criteria

Disposition criteria

Side lot criteria

Planning and coordination

Permanent affordability provisions

Operations plan



Possible staff needs for operating surplus land program

Housing specialist

Housing finance specialist

Planner

Real estate dept.

Legal staff

Operating Budget for Surplus Land Program

Operations

Legal staff

Maintenance- vendor or in house

Demo and clearing

Insurance



Tracking System

Robust cloud-based platform

Example- Property Profile System (PPS)

Property Management system

Information on all properties that are either to be acquired, in inventory, or disposed

End to end, neighborhood and regional analysis

Interactive with vendors

Model Program: City of St. Petersburg Lot Disposition Program

THE FLORIDA HOUSING COALITION



Model Program:
**City of Jacksonville and the
Jacksonville Community Land Trust**

THE FLORIDA HOUSING COALITION



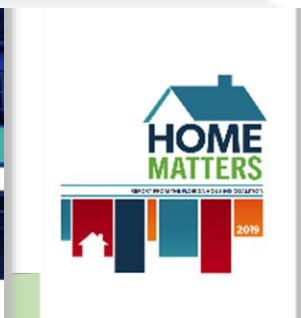
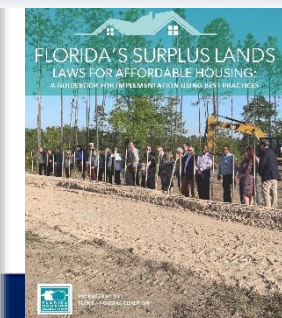
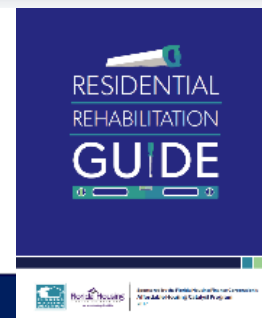
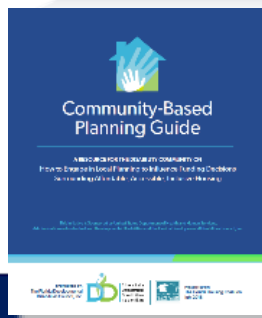
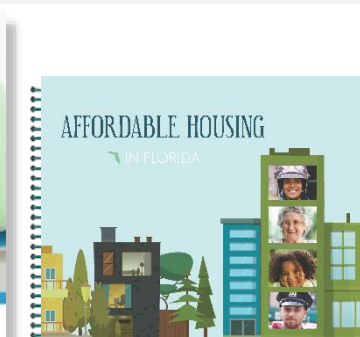
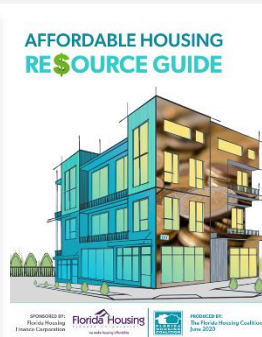
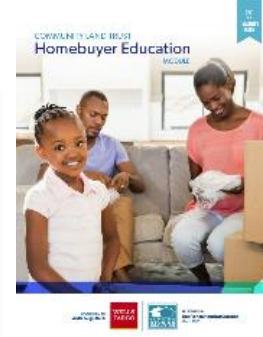
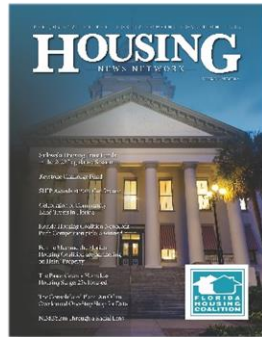
Questions



[This Photo](#) by Unknown Author is licensed under [CC BY](#)

FLORIDA HOUSING COALITION PUBLICATIONS

Access these valuable resources and more under the Publications tab at Flhousing.org



Upcoming Trainings

In-Person Training:

The Credit Underwriting Process for Affordable Housing

Date: November 3rd

Location: Tampa

Webinars:

Hurricane Ian SHIP Resources (November 2nd)

Preparing for SHIP Monitoring Part 1 (November 8th)

Preparing for SHIP Monitoring Part 2 (November 10th)

To Register, visit <https://flhousing.org/events/>



Take the Survey



More questions? Need help with a project? Just ask!

- Technical Assistance Hotline
800-677-4548
www.flhousing.org



Ashon Nesbitt
nesbitt@flhousing.org
813-476-4170

Gladys Cook
cook@flhousing.org
813-830-3450



**Thank You
For Attending!**

