

January 11, 2007

**MEMORANDUM**

TO: Prospective Purchaser

FROM: John P. Gabel III, CPA, Notary Public  
Finance Director

RE: Sale of Abandoned, Adjudicated Property

**BECAUSE THIS 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 YOU THIS.**

In response to your request for information regarding the purchase of property adjudicated for tax purposes to the Parish, the Livingston Parish Council 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 Livingston for past due property taxes. The Livingston Parish Assessor has recently compiled 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 the main branch of the Parish Library, located in Livingston, 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 \$150.00 certified check or money order for each piece of property made payable to the Parish of Livingston must be included with the form. 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 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.

If the Department of Public Works believes the property is not needed for public purposes (only the Council can declare the property surplus), it will post a sign indicating that the property is surplus and for sale and will make an initial recommendation to appraise and sell the property. You will be notified of the status of the property and the cost of the appraisal, which must be advanced by you, if you wish to proceed. We anticipate the cost of an appraisal to be \$150.00 for a vacant subdivision lot, \$250.00 for a subdivision lot with improvements, and \$350.00 for acreage. Once this office decides that a value for vacant lots in a particular subdivision has been established, we will not require appraisals for additional lots in that subdivision.

Once this office receives the appraisal, it will inform you of the appraised value, the amount of taxes and public liens and forward to you 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 Council requesting that the property be sold in accordance with LSA-R.S. 33:4712. This statute requires that the request to have the property declared surplus and the amount of your offer be published in The Livingston Parish News. If there is no opposition or higher offer, this office will recommend that your offer either be accepted or rejected by the Finance and Executive Committee and referred to the full Council for action the following Thursday.

Anyone wishing to oppose the sale or offer a higher price, on any of the property being offered, is required to file a written offer or opposition with the Council Administrator through this office prior to the Finance and Executive Committee's hearing on the ordinance. Offers must be made on the form provided by this office and must have a cashier's check or money order payable to the Parish of Livingston attached to the offer as a deposit to reimburse you all cost advanced by you to the Parish if you are not the high bidder. Only those parties who have submitted a higher offer with the required deposit will be allowed to make additional verbal bids on the property immediately after the Finance and Executive Committee hearing. The results of the bidding process and the recommendation of this office will then be submitted to the full Council for action the following Thursday.

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 to be sure that a higher offer has not been received and to bid higher if needed and you so desire. Hearings may be continued without prior notice. Notice of the hearing will be published in the legal notice section of The Livingston Parish News on the three Thursdays prior to the hearing.

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 Livingston 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. 47:2261, 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 Livingston, 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) A requirement that you make written request to the Property Section of the Office of the Parish Attorney to notify those persons identified by you in accordance with LSA-R.S. 33:4720.17 and LSA-R.S. 47:2261. (The sum of five dollars per notice by mail requested and/or the sum of thirty dollars per notice by publication shall accompany the written request to defray the cost for providing the notice.)
- 3) A requirement that once notice is given, you record proof of notice in the conveyance records of Livingston 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 Parish-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, the Parish-President is authorized to execute an act of cash sale in which the Parish of Livingston conveys the above described property to anyone who shall complete the requirements of Section 2 of the adopted ordinance; 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 Parish-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 Livingston Parish Council, no new bid of a lesser amount will be accepted from the high bidder if the sale is not completed.
- 10) A provision that the parish will retain all mineral rights, but relinquish surface rights.

**YOUR INITIAL CHECK FOR \$150.00 AND THE COST OF THE APPRAISAL SHALL NOT BE APPLIED TO THE PURCHASE PRICE. YOUR INITIAL CHECK FOR \$150.00 SHALL NOT BE REFUNDABLE. THE COST OF THE APPRAISAL SHALL NOT BE REFUNDABLE IF THE COUNCIL REJECTS YOUR OFFER, OR IF YOU ELECT NOT TO COMPLETE THE SALE FOR WHATEVER REASON, BUT SHALL BE**

**REFUNDED TO YOU 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.**