

HOW TO: SELL BOROUGH OWNED REAL PROPERTY

By Shelley A. Houk

The borough owns a parcel of land that it cannot use however a property owner contingent to the parcel wants to purchase the parcel to build a garage on it. Can the borough just negotiate the price with that property owner or does it call a realtor to sell it for them? The answer is no to both questions.

According to section 1201(4) (i) of the Borough Code the parcel must be appraised by a bona fide real estate appraiser. If the appraised value exceeds \$1,500 then the borough must advertise for bids one time in a newspaper of general circulation and set the fair market value as the starting point no less than ten days prior to the date scheduled for the opening of bids or public auction. The advertisement must include the date for the opening of bids. Please note that this appraisal is not a public record under section 708 (b) (22) (i) of the Right to Know Law, until after the decision has been made to dispose of the real property. The council enacts a resolution then to sell to the successful bidder. The complete payment must be submitted to the borough within 60 days.

Borough council does reserve the right to refuse any bids that are less than the fair market value. Also when the borough decides to sell the parcel at a public auction then council may establish a minimum bid.

If the appraiser indicates that the real property is worth less than \$1,000 the borough must pass a resolution stating the above and sell it through a public process.

Section 1201.3 lists exceptions to the bidding requirement if the borough is selling to another political subdivision, a volunteer fire or ambulance company, school district, a council of governments, a non-profit corporation engaged in community development or reuse, a non-profit library, the Commonwealth or Federal government.

When the Borough Code was amended by Act 43-2012 section (d) provides that “council shall have the authority to exchange real property of equal or greater value without complying with this section, provided it will be used for municipal purposes.” Council must pass a resolution with a description of the property in one newspaper of general circulation no more than 60 days nor fewer than seven days prior to adoption.

**RESOLUTION FOR REAL PROPERTY EXCHANGE
TO CERTAIN ENTITIES**

WHEREAS, Act 43-2012 amended the Borough Code (Act 581-1966) to authorize council to exchange borough real property for real property of equal or greater value provided it is used for municipal purposes with those entities listed in section 53 PS§ 46201.1 (d)(1-4), or §1201.1 (d) (1-4) of the Borough Code;

WHEREAS, section 53 PS§ 46201.1(d) (1) municipal purposes include a sale or lease of the property to an entity listed in 53 § 46201.3, section § 1201.3 of the Borough Code;

WHEREAS, 53 PS § 46201.1 (d) (3), section § 1201.1(d) (3) of the Borough Code requires council first to advertise a resolution of its intention to exchange real property once in a newspaper of general circulation time no less than seven days and no later than sixty days prior to adoption;

[WHEREAS, the resolution shall contain a description of the real property and it may also include a clause that the real property reverts to the borough when it is no longer used for municipal purposes;] *

NOW THEREFORE BE IT RESOLVED, by Council of the Borough of _____,
County of _____ and Commonwealth of Pennsylvania.

ADOPTED AND APPROVED this _____day of (month) _____, 2012.

BOROUGH OF _____

By: _____

President of Council

ATTEST: _____

(Borough Secretary)

APPROVED this _____day of _____, 2012

*Include description of real property being exchanged.