

Expedited Bill No. 11-12
Concerning: County Property -
Disposition
Revised: 5-1-12 Draft No. 8
Introduced: March 13, 2012
Enacted: May 1, 2012
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Leventhal and Elrich, Council President Berliner,
and Councilmembers Andrews, Riemer, and Navarro

AN EXPEDITED ACT to:

- (1) modify the procedures to dispose of County property;
- (2) require the County Council to approve certain ~~[[dispositions of]]~~ actions regarding certain County properties, and authorize the Council to review certain agreements to dispose of County property;
- (3) prohibit the County from disposing of certain property at less than full market value, unless the Council waives this requirement; and
- ~~[[3]]~~ (4) generally amend the County law regarding disposition of County property.

By amending

Montgomery County Code
Chapter 11B, Contracts and Procurement
Section 11B-45

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 11B-45 is amended as follows:**

2 **11B-45. Disposition of real property.**

3 (a) The County Executive must adopt regulations to establish a process for
4 the disposition of any real property owned or controlled by the County,
5 other than surplus school facilities and [other] property of nominal value
6 identified in the regulation. [[As used in this Section, "disposition"
7 means a sale, a lease or license for a term of 3 years or longer, or a lease
8 or other document which includes an option to buy.]] The regulations
9 must provide for:

- 10 (1) coordination among public agencies, including any [municipal
11 corporation] municipality in which the real property is located;
12 (2) opportunity to reserve property for alternative public use;
13 (3) comparative analysis of reuse proposals before any disposition
14 actions; and
15 (4) public notice and hearing on possible dispositions before final
16 decision on disposition, except that the County Executive may
17 waive the public hearing requirement for any real property that:
18 (A) has nominal value; or
19 (B) is recommended to be reused by the County government.

20 (b) As used in this Section, disposition means a sale, a lease or license for a
21 term of ~~[[3]] 2 years~~ or longer, or a lease or other document which
22 includes an option to buy. If a license or lease for an initial term of less
23 than ~~[[3]] 2 years~~ is extended or renewed beyond ~~[[3]] 2 years,~~ that
24 extension or renewal is a disposition. Disposition does not include:

- 25 (1) a lease of or license to use any parkland, or any facility located on
26 parkland, that the Parks Department operates or manages for the
27 County;

- 28 (2) a license to use County property that is coterminous with a
 29 contract for services performed by the licensee; [[or]]
- 30 (3) a license to use County property to provide child or adult day
 31 care services; [[or]]
- 32 (4) a sale or lease of property to the Housing Opportunities
 33 Commission for housing development;
- 34 (5) a sale of one or more housing units obtained by the County using
 35 its right of first refusal under Section 11A-3 or 11A-4, Chapter
 36 25A, or Chapter 53A, and resold for not less than the County
 37 paid; or
- 38 (6) a transfer of County right-of-way that is needed to implement a
 39 road or transit project that is included in the applicable master or
 40 other land use plan.
- 41 (c) Unless the County Council waives this requirement under subsection
 42 (e)(2)(B), the Executive must not dispose of any property owned or
 43 controlled by the County at less than full market value. In case of a sale
 44 of property, full market value must be determined by at least one
 45 professional appraisal of the property obtained by the Director within
 46 [[the previous]] [[6]] 12 months before a declaration is submitted to the
 47 Council.
- 48 (d) Before seeking Council approval of a declaration of no further need
 49 under subsection (e), the Executive must submit to the Council and
 50 allow the Council at least 30 days to comment on:
- 51 (1) all material terms of the disposition, including the price or rent to
 52 be paid and any associated economic incentives; and
- 53 (2) any appraisal that the Executive relied on or will rely on in setting
 54 the property's market value.

55 In addition, the Executive should when practicable submit for prior
 56 Council review the parameters and material terms of a disposition that
 57 has not begun to be negotiated. Any document submitted under this
 58 subsection, [[other than any document submitted under the preceding
 59 sentence which]] to the extent the document need not be disclosed under
 60 state law, [[is a public document]] must be treated as confidential.

61 [[b)] (e) [[Before]] In addition to the process required under subsection (a),
 62 before the disposition of any real property owned or controlled by the
 63 County (other than a property which has either nominal value or an
 64 appraised value lower than \$100,000) becomes final[[,]]:

65 (1) the Executive must publish a declaration in the County Register
 66 and post a notice on the County website that the County has no
 67 further need for the property or, if the disposition is a lease or
 68 license, has no further need for the property during the term of
 69 the lease or license; and

70 (2) the [[County]] Council, by resolution adopted after the Council
 71 holds a public hearing with at least 15 days advance notice, must
 72 approve:

73 [[1)] (A) the [[disposition]] Executive's declaration of no
 74 further need; and

75 [[2)] (B) [[all material terms of the disposition, including the
 76 price or rent to be paid and any associated economic
 77 incentives.]] any disposition of the property at less than
 78 full market value.

79 The Director must adjust the \$100,000 floor in this subsection on July 1
 80 every third year by the percentage increase or decrease in the applicable
 81 Consumer Price Index, or any successor index, during the previous 3

82 calendar years, rounded to the nearest \$1000. The Council may waive
 83 the public hearing required by this subsection if it concludes that a
 84 hearing on a particular proposed disposition is not necessary to properly
 85 assess the proposed action. If the Council does not act under this
 86 subsection within 60 days after the Executive has submitted [[all
 87 information necessary to assess]] the proposed action, the proposed
 88 action is automatically approved. The Council may extend [[this]] the
 89 60-day deadline by resolution if the Council President has informed the
 90 Executive, within 30 days after the Executive submitted the proposed
 91 action, that the Council has not received all information necessary to
 92 review the proposed action. If [[this]] the 60-day deadline would fall
 93 during August or from December 15 through December 31, the deadline
 94 is automatically extended until the next scheduled Council session.
 95 This subsection and subsection (c) do not apply to any disposition of
 96 property that will be used primarily for housing development if the
 97 recipient legally commits to the Director of the Department of Housing
 98 and Community Affairs that at least 30% of the housing units built on
 99 the property will be moderately priced dwelling units or other units that
 100 are exempt from the development impact tax under Section 52-49(g)(1)-
 101 (4).

102 [(b)] [(c)] (f) * * *

103 [(c)] [(d)] (g) The Executive must adopt regulations to establish a process for
 104 disposition of surplus schools. As used in this Section, "surplus school"
 105 means any building used at any time as a public school and later
 106 conveyed to the County and all or part of the land which constitutes the
 107 school site[, and "disposition" means a sale or a lease with an option to
 108 buy]. The regulations must provide for:

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* * *

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[[d)] [(e)] (h) * * *

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Sec. 2. Expedited Effective Date; Applicability.

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The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law. County Code Section 11B-45, as amended by Section 1 of this Act, [[applies]] does not apply to any disposition of County property [[completed on or after]] for which a legally enforceable contract, lease, or other agreement was signed by all parties before that date.

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Sec. 3. Applicability – White Flint Sector Plan area.

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Section 11B-45(b)-(e), as amended by Section 1 of this Act, does not apply to any sale by the County of real property located in the boundaries of the White Flint Sector Plan if:

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- (a) the property was acquired by the County from the State Highway Administration;
- (b) the property was originally acquired by the State Highway Administration to construct Montrose Parkway; and
- (c) the sale by the County is completed on or before December 31, 2012.

127 *Approved:*

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Roger Berliner, President, County Council

5/2/2012

Date

129 *Approved:*

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Isiah Leggett, County Executive

Date

131 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date