

**Montgomery County Land Reutilization Corporation (MCLRC)**  
**Board Meeting**  
July 18, 2017

**Attendees:** Carolyn Rice, Treasurer (Chair of the Board)  
Doug Harnish, Principle, Market Metrics (Vice Chair of the Board)  
Sheila Crane, Realtor/Community Dev. Specialist, HER Realtors (Board Member)  
Brian Inderrieden, Director of Planning & Comm. Dev., City of Dayton (Board Member)  
John Theobald, Commission Aide to Debbie Lieberman (Commission Representative)  
Mark Willis, Commission Aide to Judy Dodge (Commission Representative)  
Mike Grauwelman, MCLRC (Executive Director)  
David Williamson, MCLRC (General Counsel)  
Angela Lilly, Montgomery County Treasurer's Office (Secretary)  
Cory Frolik, Reporter, Dayton Daily News

**Absent (Copies To):** Debbie Lieberman, Montgomery County Commissioner (Board Member)  
Judy Dodge, Montgomery County Commissioner (Board Member)  
Scott Paulson, Trustee, Washington Township (Board Member)  
Judy Zimmerman, Dir. of Finance, Treasurer's Office (Treasurer)

**Call to Order**

Carolyn Rice, Chair of the Board, noting a quorum, called the meeting to order. A copy of the agenda is attached for reference.

**Approval of Minutes**

Sheila Crane moved to approve the June 20, 2017 Board meeting minutes. The motion was seconded by Mark Willis and approved unanimously by voice vote.

**New Business: Item No. 1: Commercial Redevelopment Program – 5042 Free Pike**

5042 Free Pike is a property located in Trotwood and at one time may have been a repair shop or car wash. The property is valued at \$52,440 and is tax delinquent \$5,779. Mr. Edwin Swann is an entrepreneur interested in acquiring the property to use as a restaurant/cafeteria or jazz coffee shop. He has limited personal sources to finance the project; however, the alternative to supporting this project is to risk letting the property continue to deteriorate. The City of Trotwood has indicated that it supports the request. Due to the state liens in excess of \$300,000 and defects in the chain of title, the property will have to go through a judicial foreclosure. The Board discussed concerns in regards to the cost of repairs needed for the property, having a business plan from the potential owner, and the use of the building as it pertains to the surrounding residential homes. John Theobald moved to table the request until further discussion with the City of Trotwood has occurred articulating the issues raised by the Board. The motion was seconded by Mark Willis and approved unanimously by voice vote. *See attached Board memo for additional details.*

## **Other Business: Item No. 2 Commercial Redevelopment Pilot Project**

The plan is to proactively acquire properties and put them back into productive use. To obtain the property, the Land Bank would negotiate the purchase of the tax liens from the Treasurer's Office and then file for foreclosure using private counsel. The property would go through a judicial foreclosure process and the court would assign a receiver to administer the sale. The pilot property for this program is located in an industrial park in the City of Dayton. There are number of federal and state tax liens against the property, as well as mortgage and delinquent taxes. The property is a modest size building and appears to be in good condition in a desirable location. The Land Bank would be responsible for property maintenance and other costs that may be involved in the sale of the property. Upon the sale of the property, the Land Bank will be reimbursed all costs, including the real estate tax liability. The estimated direct cost of the pilot is \$75,000. John Theobald moved to approve the Commercial Redevelopment Pilot project. The motion was seconded by Mark Willis and approved unanimously by voice vote. See attached Board memo for additional details.

## **Other Business – Financials**

The Board reviewed the MCLRC program expenditures and revenues, including a NIP reimbursement and expenditures summary. The variance in the personnel line item will no longer increase as a new hire has been added. The cash balance for June was \$4,747,110.00

## **Other Business – Neighborhood Initiative Program**

Mike Grauwelman provided an update on the NIP program and reviewed the NIP milestones. Year to date the Land Bank has acquired 758 properties. Environmental surveys have been awarded for 650 properties, remediation contracts have been awarded for 394 properties, and demolition contracts awarded for 465 properties. Some challenges have arisen with some of the demolition contractors in terms of capacity. Twenty-four of the NIP lots have been transferred to the adjacent property owners.

## **Other Business – TFAP/DIY Programs/NCST/Commercial Redevelopment**

In 2016, 94 applications were processed for the Tax Foreclosure Acquisition Program, with 36 properties transferred to the applicants. In 2017, only 30 applications have been processed, with only three properties transferred to the applicants thus far due to the capacity challenges in processing NIP properties.

In regards to the DIY Program, staff have researched 127 properties, physically visiting 94 of those properties. Fourteen new affidavits have been submitted along with the 50 properties that are currently in the foreclosure process for the program.

Two properties have been purchased from the 46 NCST sites the staff has visited. NCST has donated nine properties for demolition and have agreed to pay the cost of demolition.

Fifteen properties have been evaluated for the Commercial Redevelopment Program. Ten properties have been processed with six in inventory, two in pre-inventory, one submitted to judicial foreclosure, and one possible tax lien sale.

**Other Business – 225 S. Main (Project 9)**

Masonry work is still being completed on the building at 225 S. Main Street in order to ensure public safety. Capital costs accrue to the City of Dayton.

**Announcement**

The next board meeting is scheduled for Tuesday, August 15, 2017.

**Call to Adjourn**

There being no further business, the meeting was adjourned.

**I hereby certify that the minutes related to the Board of Directors' monthly meeting July 18, 2017 set forth above are the minutes approved by the Board of Directors at their meeting of August 16, 2017.**

**/s/ Angela Lilly**

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**Angela Lilly, Secretary  
Montgomery County Land Reutilization  
Corporation**



## **Board Meeting Agenda**

**Montgomery County Land Reutilization Corporation**

**July 18, 2017 3:30 pm**

**Montgomery County Treasurer's Office**

Amended

**Call to Order:** Chair Carolyn Rice

**Roll Call:**

**Approval of Minutes:** June 20, 2017 (Attached)

**Old Business:**

**New Business:**

- **Item No. 1: Commercial Redevelopment Program – 5042 Free Pike (See Attached)**
  - **Presentation and Discussion**
  - **Motion to Approve**
  
- **Item No. 2: Commercial Redevelopment Pilot (See Attached)**
  - **Presentation and Discussion**
  - **Motion to Approve**

**Other Business:**

- **Monthly Financials**
- **Program Briefing**

**Next Meeting:** August 15, 2017 @ 3:30 pm

**Adjourn**

**To:** MCLRC Board of Directors  
**From:** Mike Grauwelman Executive Director  
**Subject:** July Agenda  
**Date:** July 11, 2017



**New Business**

- **Item No. 1: Commercial Redevelopment Program – 5042 Free Pike**

**Steering Committee Recommendation: Approval**

**Staff Recommendation: Approval**

The attached application is being made by Mr. Edwin Swann in an interest in acquiring 5042 Free Pike to renovate the property. The application states the property would be used as a restaurant, cafeteria, and / or bar. The applicant recently indicated his intentions to use the property as a jazz coffee shop. The property contains a block structure of approximately 3,350 square feet built in 1958 located on a lot of approximately 17,000 square feet.

The property is tax delinquent \$5,779, and has a value of \$52,440 according to the Auditor’s page. Numerous liens and title defects are present on the property. The judgments on the property are held by the State of Ohio and are in excess of \$300,000. The two most recent deeds in the chain of title are defective. The deed to the current owner has a defective acknowledgment. Also, there is a question about whether the grantor under that deed – Gina, Inc., an Ohio corporation – was ever incorporated in Ohio. Also, the deed before that is defective because it doesn’t state the grantor’s marital status. If he is married, his wife needed to sign the deed to release her dower rights.

The property is not currently zoned for the proposed use. The applicant has spoken to the City of Trotwood about his intentions. The City of Trotwood has no apparent objection to the transaction, and has indicated that it supports the request.

The applicant has been vetted and is considered a responsible party as provided in the application. In determining the viability of the proposal the applicants experience and financial capacity were briefly evaluated. The applicant has indicated that he has managed a restaurant, and has experience in renovation. Despite these experiences there are concerns about the success of the project. These concerns emanate from the applicant’s lack of experience as an owner operator, and the financial capacity and / or support available to the venture. The project is being financed strictly from limited personal sources, and leveraging personal knowledge to make facility improvements. It should be noted that the extent of this knowledge / capability is unknown as is the extent to which improvements will need to be made to the facility. (Access is prohibited to a privately owned property.) No effort was made to try to determine the market viability of the proposed use. Therefore, in developing a recommendation, the request was viewed

weighing potential outcomes. The property is viewed as marginal and has numerous encumbrances that will render it vacant for an extended period of time. It is anticipated that it will continue to fall into a continuing state of disrepair if not for a venture such as that being proposed. If not for the support of the Land Bank for the application, and the willingness of the applicant to make an investment, the property is likely to fall into a state of disrepair and will ultimately need to be demolished. The applicant's request under these circumstances appears to be the best opportunity for all concerned.

A recommendation of approval of the request is recommended.

## **Item No 2: Commercial Redevelopment Pilot**

**Steering Committee Recommendation: Approval**  
**Staff Recommendation: Approval**

For some time the challenges with the current Commercial Redevelopment Program have been voiced during our meetings. Our experience provides that the current program can be effective in serving the needs of speculators and very patient applicants, but is challenged by the lengthy timeframe associated with the legal process, and a high degree of uncertainty as to the foreclosure processes outcome. As a result the current program has received little or no interest from established firms that might be considered "Buyers" in the market. Both timing and uncertainty are critical decision making factors to those firms interested in locating and / or growing in our market. These program challenges' prevent the organization from playing a valuable economic development role in the community and serving the "Buyer" market. This pro-active pilot is being proposed in order to expand our offering to this very important economic market.

There are a few significant differences between the proposed pilot and the current program that are intended to address the issues of timing and uncertainty. The primary difference to the market is an offering of a property for sale as opposed to a service that attempts to gain control. The following provides further detail on the differences in process and resources employed between the current program approach and the pilot.

**Process:** Under our current program a commercial property will go through a judicial foreclosure proceeding, and if successful the court directs the property to be offered at a Sherriff's sale(s). The Sherriff's sale is a public offering intended to obtain a "distressed market price" for the property. Under these circumstances the Land Bank does not automatically receive the property unless no bids are received as it does under the expedited tax foreclosure process used for NIP properties. There may be up to three Sherriff's sales, and the applicant or Land Bank may bid on the property if they so choose. In either case control of the property is awarded to the highest bidder, and the Land Bank is not necessarily able to provide a service /the property to the applicant. (This result would occur after months of Land Bank staff involvement and Board approval.) The effort may succeeded in changing ownership of the property, and collecting amounts to be paid to lien holders (including the real estate taxes), but not necessarily satisfying the applicant's

ownership objective. The program is therefore cumbersome and lacks the benefits sought by well capitalized applicants. The approach provides little if any community control over the outcome, and tends to attract speculative investment.

The Pilot program will utilize the judicial process in a similar manner as the existing program. However, the Land Bank would purchase the tax lien from the Treasurer and file for the foreclosure. The difference in lien holder (Treasurer Vs Land Bank) changes the manner in which property is offered for sale. Once again the court will determine that a sale is necessary, but in this case the property is assigned to a "Receiver" who is responsible for the management and sale of the property. As the entity that holds the first lien position, the Land Bank can recommend a Receiver to the court, and direct the Receiver in the management and sales activities affording the community some control, and an offering to the Buyer market. (Note: The Land Bank may also be able to serve as the Receiver.) Expenses associated with the property are accounted for and reimbursed upon sale, which would need to be approved by the court.

**Resources:** The pilot program will require the use of Land Bank financial resources legal counsel and property maintenance. Funds will be used to hire legal counsel to litigate the foreclosure case as it is being brought by the Land Bank as the owner of the tax lien. Currently we utilize the services of the Montgomery County Prosecutor's Office (MCPO) exclusively to process foreclosure requests that are made by the Treasurer's Office. Once the sale is authorized by the court and a receiver appointed, the Land Bank, at its discretion, may determine that certain maintenance activities be undertaken to preserve and market the property. Legal fees and property maintenance costs must be accounted for, but are reimbursed upon the sale of the property. The risk to the Land Bank is that the sale proceeds do not cover these costs.

Unlike our current approach of having a final disposition (owner, use) identified, this effort is speculative and requires property to be held hold and maintained while new ownership is sought. (Analogues to the DIY program.) There are no requirements to maintain the property other than that of a responsible corporate citizen.

**Contract Support:** It is anticipated that the property management and marketing will be outsourced to local firms yet to be identified. A Cincinnati based firm that has experience with the Montgomery County Treasurer's, Prosecutor's, and Land Bank offices has been identified as a source for legal support. The firm has developed a base of expertise in this area that is well suited, and should serve us well should we undertake more forecloses of this type. General Counsel has reviewed a letter of engagement from the firm and is comfortable with the arrangement.

**Other Potential Benefits:** As conceived it is possible that the program will generate a certain amount of revenue to be reinvested back into the community. The success of this is largely dependent upon the choice of property, cost of liens, and strength of the market in which properties are located.

**Pilot Property:** The pilot property is located in the City of Dayton in a well tenanted industrial park. The Structure is of newer brick and block construction and appears in good condition. There are numerous federal tax liens totaling over \$2,000,000, judgment liens in favor of the State of Ohio totaling over \$500,000, and a 2010 mortgage in the original amount of \$200,000. The real estate tax delinquency is over \$53,000.



# Commercial Redevelopment Application

PLEASE COMPLETE AND SIGN THIS FORM (FRONT AND BACK) AND PROVIDE THE FOLLOWING AS ATTACHMENTS:

a. APPLICATION FEE (NON-REFUNDABLE) IN THE AMOUNT OF \$2,000 (CHECK OR MONEY ORDER)

NOTE: THE COST OF THE PROPERTY WILL BE NEGOTIATED SEPARATELY.

b. COPY OF CURRENT STATE OF OHIO DRIVER'S LICENSE OR PHOTO ID

APPLICANT NAME (S): Edwige J Swann

SOCIAL SECURITY OR TAX IDENTIFICATION No. (S): 282-88-6625

ADDRESS: PO BOX 60944 Dayton, Ohio 45400

PHONE NUMBER(S): 937-289-8225

EMAIL ADDRESS(ES): Joeyswann78@gmail.com

SUBJECT PROPERTY ADDRESS: 5042 Free Pike Dayton, OH 45426

PARCEL ID#(S): H33 01007 0019

SUBJECT PROPERTY TYPE: Restaurant, Cafeteria, Bar (INDUSTRIAL, MANUFACTURING, OFFICE, WAREHOUSE, MULTI-FAMILY, VACANT LOT, ETC.)

HAVE YOU CONTACTED ANY GOVERNMENT ENTITY REGARDING THIS PROPERTY? (CITY OR TOWNSHIP, TREASURER'S OFFICE, PROSECUTOR'S OFFICE, ETC.) NO

PLANNED DISPOSITION: (DESCRIBE THE INTENDED OWNERSHIP POST IMPROVEMENT.

- A. RENOVATE AND ESTABLISH BUSINESS
- B. RENOVATE AND RENT OUT
- C. RENOVATE AND SELL
- D. DEMOLISH AND \_\_\_\_\_
- F. OTHER \_\_\_\_\_

HOW WILL YOU FUND OWNER EXPENSES? (IMPROVEMENTS, MAINTENANCE, INSURANCE, REAL ESTATE TAXES, ETC.)  
Savings and potential Equity line or 401K

PLANNED USE (DESCRIBE THE INTENDED USE OF THE PROPERTY ATTACH ADDITIONAL DOCUMENTS AS NEEDED):

re-establish the property as a jazz lounge

BRIEFLY DESCRIBE THE EXPERIENCE OF THE FIRM / ORGANIZATION / INDIVIDUAL(S) THAT WILL BE RESPONSIBLE FOR THE IMPROVEMENTS TO THE FACILITY.

Have experience working for property investor rehabing foreclosed property. Have 7 years experience in the construction field, current employer Cematrix.

BRIEFLY DESCRIBE THE COMMITMENTS (SOURCES WITH CONTACTS AND AMOUNTS) THAT HAVE BEEN AND ARE EXPECTED TO BE MADE TO FINANCE THE PROJECT. ATTACH LETTERS OF CREDIT, FINANCIAL STATEMENTS OR ANY OTHER DOCUMENTS NEEDED TO VERIFY FINANCIAL CAPABILITIES.

Personal finances and potential line of credit from investor. Diamond Properties of Dayton.

ATTACH A BUDGET FOR THE IMPROVEMENTS.

PROJECTED OWNERSHIP NAME (FULL LEGAL NAME) AND ADDRESS: Edwin J. Swann  
810 Renere Village Ct. Apt. #B Centerville, OH 45458

HOW DID YOU HEAR OF THE LAND BANK? Kaya Patrick

OFFICE USE ONLY: NEIGHBORHOOD: _____	TARGETED AREA: YES/NO
DEPOSIT RECEIVED: <input checked="" type="radio"/> YES / <input type="radio"/> NO	AMOUNT \$ <u>300</u>
<u>credit ok</u>	<u>3/27/17</u>
<u>4/27/17 by [signature]</u>	<u>-electronic file</u>



# Commercial Redevelopment Application

## APPLICANT AFFIDAVIT AND AGREEMENT

Now comes Edwin J. Swann ("AFFIANT"), who makes the following representations and warranties to the Montgomery County Land Bank ("MCLB"), and undertakes the following obligations stated in this Applicant Affidavit and Agreement.

AFFIANT states that within the two (2) years prior to the date of the submission of this Affidavit, that he/she or the firm associated with making this application:

- Has not been involved in any bankruptcy proceedings, and
- Has not been tax delinquent, and
- Currently resides in the state of Ohio, and
- Authorizes the running of a credit report/background check and any other investigations that MCLB deems necessary to establish applicant's eligibility.

AFFIANT further represents and warrants to MCLB that within the two (2) years prior to the date of the submission of this Affidavit, that no real property that he/she or the firm associated with this application has an ownership interest in has been:

- In violation of any building, housing or zoning codes;
- Tax delinquent, including all assessments; nor
- Involved in any foreclosure proceedings.

AFFIANT further represents, warrants and agrees that:

- All information on the attached Application form is correct, true and complete to the best of his/her knowledge.
- He/she will take ownership of the property once it has completed the tax foreclosure process.
- He/she will renovate, maintain, demolish, or take those actions necessary to comply with all building, housing and zoning codes and standards, and all local ordinances and laws within 6 months of acquiring the property.
- He/she will not transfer ownership of the property without first performing all necessary renovations to bring the property up to code.
- He/she will pay all real estate taxes and assessments going forward.
- He/she is in no way related to or has a relationship with (friend, business, family) the former property owner, and agrees that should he/she elect to sell the property, it will not be to the former property owner or his/her family.
- If, in the sole opinion of MCLB, the applicant is found to have falsified statements on the application, misrepresents him or herself, or fails to fulfill his/her obligations for any reason, the entire fee will be forfeited. The applicant is also subject to loss of any interest in the subject property, and will be prohibited from participating again in this program.

FURTHER AFFIANT SAYETH NAUGHT

Affiant's Signature(s):

Edwin J. Swann

Affiant's Name(s) (PRINT):

Edwin J. Swann

Affiant's Position within the firm:

Property Manager and Owner

(Please attach a Corporate Resolution or By Laws indicating that the Affiant has the authority to make this application.)

Subscribed to and sworn before me by Edwin Swann on this 27  
day of March, 2017 in the City of Centerville, Ohio.

Maria A. Sanchez  
Notary Public

