EXECUTIVE ORDER 2018-5

WHEREAS, 9 Del. C. § 330 provides the New Castle County Government with general powers and duties to direct, manage and control its business and finances; and

WHEREAS, 9 Del. C. § 1116 requires the New Castle County Executive see that the duties and responsibilities of the executive and administrative agencies of the County are properly performed and that the work of the county offices, departments, and agencies is properly coordinated; and

WHEREAS, New Castle County, like many local governments across the nation, has experienced an increase of vacant and abandoned properties throughout the County; and

WHEREAS, vacant and abandoned properties blight neighborhoods, attract crime, decrease neighboring property values and require the increased expenditure of County resources due to code violation abatement, property maintenance inspections and public safety responses; and

WHEREAS, the vacant housing strategy is intended to improve communities by: (1) reducing blight and crime; and (2) putting vacant properties back to productive use; and

WHEREAS, utilizing the monition process is essential to collect overdue taxes and other monies owed to the County and is also an integral part of the County’s vacant housing strategy to improve communities and shift the cost of vacancy to responsible parties; and

WHEREAS, to collect effectively monies owed to the County and to increase the likelihood that properties will be placed back into productive use quickly, clear policies and procedures must guide the County’s honest, transparent and efficient actions after monition sales.

THEREFORE, I, the County Executive, direct that the following policy be implemented:

1. Acquisition of Properties through the Monition Process and Disposition of those Properties attached hereto as Exhibit A.

2. This Executive Order shall become enforceable immediately upon signature by the New Castle County Executive. This Executive Order will remain in effect until and unless rescinded by subsequent order of the New Castle County Executive.

Matthew S. Meyer
New Castle County Executive

HONESTY ★ TRANSPARENCY ★ EFFICIENCY
EXECUTIVE POLICY

ACQUISITION OF PROPERTIES THROUGH
THE MONITION PROCESS AND DISPOSITION OF THOSE PROPERTIES

I. Acquisition and Disposition Team. The General Managers of the Departments of Land Use, Community Services and the Office of Administrative Services, the County Attorney, and the Chief Financial Officer, or his or her designees, shall form a team to review properties that have sold through the monition process and make recommendations to the County Executive concerning the acquisition and disposition of those properties (the “Acquisition and Disposition Team”).

II. Review of Properties after Sheriff’s Sale. Pursuant to the Procedure for Prioritizing Properties for Monition Sale, adopted by Executive Order 2017-7, within 48 hours of the close of a Sheriff’s Sale, the Office of Law shall notify the Chief Financial Officer and the Acquisition and Disposition Team of the result of the auction. Within twenty (20) days of receiving the auction results, the Acquisition and Disposition Team shall review the results of the auction and recommend one of the following actions for each sale based upon the policies contained herein.

III. Disapproving the Bids of Third Party Purchasers. The Chief Financial Officer has the authority to approve or disapprove a final bid for any reason. In cases where a bid is disapproved, the County necessarily will absorb the costs of the sale, and the taxes and liens associated with property will remain uncollected. Thus, bids should be disapproved only where there is an indication that approving a bid will be counterproductive to the goals of efficient tax collection, reducing the cycle of vacancy, and putting properties back into productive use. When possible, the Chief Financial Officer shall confer with the County Attorney on all bid disapprovals within thirty (30) days of the date of the Sheriff’s Sale. The Acquisition and Disposition Team may recommend disapproving a bid for any of the following reasons:

A. The third party purchaser has unpaid past due taxes with respect to any real property located in the County.

B. A property owned by the third party purchaser has been subject to collection action by the County for tax-delinquency within the previous ten years.

C. The third party purchaser owes the County amounts for past due bills, fines, or fees.

D. There are open code violations or a history of code violations with respect to real property located in the County owned by the third party purchaser.

E. Multiple property maintenance abatement cases or proceedings have been commenced with respect to real property located in the County owned by the third party purchaser.
F. The property is located in an area that cannot be developed, redeveloped or improved due to environmental conditions including proximity to or location within an environmentally sensitive area such as a floodplain or wetland.

IV. Sales to County. For those properties passing to the County through buy back, the Acquisition and Disposition Team shall recommend one of three alternatives: (1) bid assignment; (2) bid rescission; or (3) County acquisition of the property subject to a specific disposition strategy.

A. Bid Assignment. Intended ownership of certain parcels may be designated by existing legal documents other than a deed. For example, open space designated on a record plan is, in most cases, designated for ownership by the community’s maintenance corporation. The developer, typically organized as an artificial entity pursuant to Delaware law, may have failed to transfer the deed and is now defunct or the corporate officers cannot be located. These parcels have limited uses and de minimus development potential. The Chief Financial Officer may assign bids for these types of parcels to the party designated for ownership or other appropriate party prior to confirmation. The Chief Financial Officer may assign a bid to a property that has development or redevelopment potential only pursuant to an Executive order identifying the specific public good that likely will result from the assignment.

B. Bid Rescission. Bids shall be rescinded in limited circumstances and only where: (1) the property condition likely will create legal liabilities; or (2) legal defects have been identified with the monition process. When possible, the Chief Financial Officer shall confer with the County Attorney on all rescissions within thirty (30) days of the date of the auction.

C. Acquisition. The County shall acquire all properties in which the bid has not been assigned or rescinded. The Acquisition and Disposition Team shall review each property and make a disposition recommendation based upon the disposition strategies contained herein.

V. Disposition Strategies. The Acquisition and Disposition Team may recommend any of the following strategies for property acquired through the monition process:

A. Transfer to a Non-profit Organization. The property may be transferred to a non-profit organization subject to the following conditions:

1. The property is located in a very low, low, or moderate-income Census Tract or is located in a market area where there is lack of affordable housing as identified by publications such as the Delaware State Housing Authority’s 2014 Market Value Analysis completed as part of the Delaware Housing Needs Assessment, as that report may be updated from time to time.

2. Capacity Questionnaire. The Department of Community Services shall certify eligible non-profit organizations through a Capacity Questionnaire. The Capacity Questionnaire shall require information including:
a. the organization’s experience in the redevelopment of vacant properties;
b. specific examples of experience in doing similar projects;
c. identification of full-time staff designated to work on the project;
d. evidence of funding necessary to complete the project;
e. proposed project timeline; and
f. ability to meet affordability/post-sale requirements if applicable.

3. Once the Department of Community Services certifies an organization as an eligible entity, it shall be eligible to participate in the County’s post-monitor property disposition process.

4. Property Proposal. For each property that the eligible entity is interested in acquiring, the eligible entity shall submit a proposal to develop the property as an income-restricted rental or homeownership unit. This proposal shall include the following:

a. adequate plan and timeline for development of the property;
b. proven financial resources to maintain the property during the renovation and to complete the renovation of the property;
c. demonstrated ability to complete the property renovation within 18 months; and
d. proposed plan for monitoring during the affordability period.

5. The County may require conveyance of the property to the eligible entity with a mortgage and reimbursement agreement between the entity and the County if the property is transferred to the entity at less than market value. The reimbursement agreement may contain language regarding timeline development, deed restrictions and income eligibility of qualified purchasers or renters. Upon satisfaction of the reimbursement agreement, the County will release the mortgage and note on the property.

6. An appraisal or a broker’s price opinion has been completed on each property to determine its market value before its transfer to the non-profit organization.

7. Proceeds from the sale of properties to a non-profit organization will be tracked as revenue through a grant detail line created through the County’s Tier Financial System.
B. County Permanent or Temporary Retention of Property. The Acquisition and Disposition Team may recommend the County retain ownership of a property subject to the following conditions:

1. Consistent with the adopted Comprehensive Plan, the Department of Land Use has identified the area in which the property is located for study, conservation, redevelopment, or any other comprehensive planning purpose.
   a. Redevelopment. The retention of a dense concentration of properties in a geographic area may be held until a coordinated redevelopment plan can be developed. Such plan will include input from relevant stakeholders including community members, neighborhood associations, community development corporations, non-profit organizations and elected officials.
   b. Conservation and preservation. Property in an environmentally-sensitive area may be converted from developed land to its natural state. The property ultimately may be conveyed to an appropriate organization or party and appropriately restricted to ensure conservation or preservation value.
   c. Parkland and community space. Property may be converted to parkland, community open space or gardens, or any other use that enhances the area or neighborhood. These properties ultimately may be conveyed to an appropriate organization or party and properly restricted to ensure the land is restricted to its intended use and not used for private gain.

2. Rehabilitation. The Department of Community Services has identified the property suitable for rehabilitation to increase very low, low and moderate-income homeownership opportunities. The Department of Community Services receives federal and state grant awards for the acquisition and renovation of vacant properties for homeownership and affordable rental.

3. Carrying and holding costs for the property will be absorbed in the County’s budget. Where appropriate, the Department recommending retention of the property shall budget for the holding costs of the property.

C. Open Market Sales. The County will advertise for sale those properties that are not designated for transfer to a non-profit organization or retention by the County.

1. The County will publish property inventory on a County website designated for this purpose. The Division of Purchasing shall advertise and manage the sale of the property.

2. An appraisal or a broker’s price opinion shall be completed on the property to determine the market value.

3. The initial asking price of the property shall not be advertised below the market value. With the approval of the Chief Financial Officer, the Division of
Purchasing may establish policies allowing a percentage reduction in the asking price dependent upon the length of time the property is advertised.

4. The County may accept an offer at a discount to the asking price if doing so supports community stabilization. For properties conveyed in this manner, the bid process may require a deed restriction that the home remains a homeownership unit and may require the property be redeveloped in a certain time period and at a certain standard. Approval of the Chief Financial Officer and the Department of Community Services shall be required for any such transaction.

5. Proceeds for the sale of Open Market Sales will be tracked as revenue through a grant detail line created through the County’s Tier Financial System.

6. A purchaser of a property offered through an Open Market Sale must meet the following requirements at the time an offer is submitted:

   a. all prequalification requirements necessary to register as a bidder at a monition sale;
   b. does not own any interest in a property located in the County that has current outstanding property tax or property maintenance related liens;
   c. does not own any interest in a property containing violations of the New Castle County Code; and
   d. has not owned any interest in a property that has been subject to a County monition sale instituted within the last ten years due to the purchaser’s failure to pay monies owed to County.

D. Additional disposition policies may be approved through Executive order.

E. The County Executive shall approve each conveyance of property prior to the conveyance becoming final. All conveyances shall conform to the disposition policies provided herein or a disposition policy provided in a subsequent Executive order.