
**BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY
TAMPA, FLORIDA 33601**

BOARD POLICY - SECTION NUMBER: 09.18.00.00

SUBJECT: ELAPP LESS THAN FEE ACQUISITION POLICY

EFFECTIVE DATE: October 1, 2000

SUPERSEDES: NEW

Purpose:

To provide criteria and requirements for the preservation of property through the ELAP Program using "Less than Fee" methods.

Policy:

It is the policy of the Board of County Commissioners that Fee Simple purchases are the primary method of preservation through the Environmental Lands Acquisition and Protection Program (ELAPP). Staff may pursue the preservation of approved ELAPP sites through Less than Fee methods, such as conservation easements or life estates, with the use of ELAPP funds in accordance with the attached criteria (consisting of three pages) to assure that the program proceeds in the best interest of the citizens of Hillsborough County.

CRITERIA FOR THE USE OF LESS THAN FEE ACQUISITIONS IN THE ELAP PROGRAM:

The following criteria relates to the use of ELAPP funds for the preservation of property through the use of Less than Fee techniques (primarily Conservation Easements and Life Estates).

PROPERTY ELIGIBLE FOR LESS THAN FEE ACQUISITION THROUGH ELAPP:

Property that has been approved for preservation through ELAPP under the Qualifying Criteria as provided in the ELAPP Annual report.

CRITERIA:

Any Property to be preserved through Less than Fee Techniques must satisfy all of the following applicable criteria.

1. The applicable ELAPP Committees have determined that it is in the best interest of the citizens of Hillsborough County. This can be accomplished through the recommendations of the ELAPP Site Selection Committee through the ELAPP Annual Report presented to the Board of County Commissioners or other policies that are established through the ELAP Program.
2. The purchase facilitates the preservation of buffers adjacent to lands held in public ownership. (Sovereign lands (rivers and the bay) are deemed to be in public ownership). This criteria would not apply to Life Estates since title will eventually be held by the County or other government agency.

3. The purchase of a Less than Fee interest in the property yields a significant cost savings over the purchase of the Fee Simple Interest.
4. Permitted uses do not conflict with the preservation objectives of the ELAP Program. The use of the lands will need to complement the objectives of the preservation project.
5. Public access is not a benefit to the citizens unless public access is permitted under the agreement or fee simple title will eventually be held by the County (as in the case of a life estate).

TYPES OF PRESERVATION:

Life Estates:

The conveyances will specify that it will be for the life of the existing owner(s) at the time the agreement is established. Upon the death of the existing owner(s) full fee simple title will vest with the County or other government agency. If the area under a life estate is predominantly native lands, a conservation easement will also be required in the transaction at no additional cost.

Modifications can include for the life of the owner(s) or a specific number of years, whichever occurs first. Another condition could be if they sell their adjoining property (such as the house). It can be anticipated that there will be other similar variations.

Conservation Easements:

Restrictive covenants that permanently limit the permitted uses of the property. Each one will be customized to the property and the owner's objectives. These restrictions will be recorded in the public record and run with the land to subsequent owners. Any mortgage or other encumbrance on the property restricted by a conservation easement must be subordinated to the easement.

Other:

Any other Less than Fee Technique that may be used provided it satisfies the underlying caveats that the preservation is permanent. (such as a sale/leaseback for a specified term).

NOTIFICATION:

Once it has been determined that a property owner is interested in pursuing a transaction involving Less than Fee, prior to staff initiating any appraisals or other negotiation for Less than Fee interests, the County Administrator's office will provide the members of the Board of County Commissioners with a memorandum advising them that staff is proposing the preservation of a particular property through a Less than Fee method. This memorandum will include a map of the property, ownership information, the general nature of the Less than Fee acquisition, and how the acquisition satisfies the five criteria in this policy. Any member of the Board may object to the proposed Less than Fee acquisition or request additional information.

If the County Administrator does not receive any objection(s) or request(s) for additional information from any member of the Board within ten working days of the distribution of the memorandum or request for additional information, staff will be authorized to proceed. The purchase of any Less than Fee interest will need to return to the Board for approval.

If at least one commissioner presents a request for additional information staff will prepare a response to the question and deliver it to all commissioners. At that point it will be treated as an initial notification and the process will start over.

If at least one Commissioner objects to a proposed Less than Fee acquisition, the objecting Commissioner will request that this matter be brought up for discussion in the Commissioner's section of the next regular meeting of the Board of County Commissioners. The Commissioners will discuss the proposed Less than Fee acquisition and vote on how staff should proceed with that particular property. A majority vote directing staff to proceed will be required before any further negotiations can occur.

EXCLUSIONS:

It is acknowledged that these requirements shall not apply to real property held, all or in part, by another government agency or agencies for the purposes of preservation. These acquisitions will be treated on the basis of fee simple purchases.

Responsibility:

The Real Estate Department and the Parks and Recreation Department shall be responsible for administering this policy.

Approved By: Board of County Commissioners
Approval Date: June 20, 2000