

# DANIEL BOONE REGIONAL LIBRARY

**SUBJECT: Real Estate Acquisition**

**ADMIN 2-750**

**BOARD**

**SECTION: 700 – Fiscal Management**

**Approved: 09/16/04**

**Revised: 02/10/11**

## POLICY

The scope of this policy includes the purchase, sale, leasing, or other acquisition or disposition of real estate or interests therein, or the construction or the making of improvements or alterations.

### I. Responsibility

Local library boards in the State of Missouri are charged with the responsibility for selecting library sites. The authority for approval cannot be delegated. The Director shall establish such criteria and procedures as are necessary to assure the Board that the best possible sites are considered and/or acquired for the expenditure of public funds. All real property acquisition proposals shall be directed to the Director for review and response by the Board.

### II. Definitions

The term “real estate” shall be understood to include, but not be limited to, land and/or improvements, including affixed structures and any other building space. This definition includes either temporary or permanent structures or improvements.

### III. ADA Accessibility

Unless the Director determines that such a requirement is not applicable to the contract in question or the scope of the work, language shall be included in all contracts for the construction/alteration of library facilities to ensure that each facility is readily accessible to and usable by individuals with disabilities and complies in all respects with ADA Title II Accessibility Guidelines.

### IV. Acquisition

A. Real estate may be acquired for library administrative and operational purposes, and for strategic planning purposes including, but not limited to:

1. Implementation of the DBRL Long-range Plan; or
2. Improvement of operations or efficiency of library facilities.

The Board may select future real estate for the purpose stated above based on standard or project-specific criteria established by library staff. DBRL may acquire real estate through funding options such as purchase, lease, lease-purchase, exchange, donation, etc. All acquisitions shall comply with the Missouri statutes.

- B. The acquisition of real estate by purchase, exchange, donation, lease or other means is not subject to the provisions of policy 2-710 (Procurement).
- C. Acquisition of real property by purchase, exchange, donation, or other means will be by general warranty deed unless the Board waives this requirement upon recommendation of the Director.
- D. In some circumstances, acquisition of real property by special warranty deed or quitclaim deed is acceptable. Examples of circumstances in which a quitclaim deed may be acceptable include the acquisition of real property by donation, by tax deed, or from another government entity.
- E. When acquiring real property, the Director may secure professionally prepared appraisal reports estimating the market value of the real property being considered for acquisition as of a specific date unless the Board waives this requirement upon recommendation of the Director.
  - 1. If secured, a Real Property Appraisal report shall be from a qualified real property appraiser licensed or registered in the State of Missouri. The report shall comply with requirements of State of Missouri statutes and regulations.
  - 2. The Director may secure as many real estate appraisal reports for any real property tract or parcel as is necessary for evaluation and decision-making purposes.
  - 3. Real Property may be purchased or acquired for more or less than appraisal value.
- F. Title Insurance and Surveys: It is Board practice to acquire title insurance for real property purchased. In the case of all real estate acquisitions, the Director will also secure a property survey for library records unless the Board waives this requirement upon recommendation of the Director.
- G. In the case of most real property acquisitions, the library requires an environmental assessment to be performed and may make closing the transaction contingent upon the findings of the assessment unless the Board waives this requirement upon recommendation of the Director. This may include Phase I through Phase III Standard Environmental Assessment Analysis.
- H. In the case of real property donations, the Board and Director reserve the right to accept or reject the donation. A donation is neither final nor binding upon the Board until such time as it is formally accepted by the Board.
- I. The Board may pay real estate commissions or similar fees to acquire or dispose of real property.
- J. Generally, the Board will require that real property being acquired by the library be free and clear of all debts, stand-by charges, or other financial encumbrances on or prior to closing.
- K. Every contract for leasing of real estate, shall incorporate language which:
  - 1. Defines and identifies the lessor and the lessee of the property;

2. Adequately defines the property that is subject to the lease, using legal descriptions where at all practicable;
  3. Defines the condition of the leased property/premises which is to exist at the beginning of the lease term of the lease, and any obligations of either party to the lease to perform any work required to achieve this condition;
  4. Defines the term for which the lease will be in effect, including any options to extend such lease term and the methods of exercising such options, if any exist;
  5. Defines and specifies the rent, any provisions for adjustments in the rent during the lease term, and the time and place for payment of rent;
  6. Defines the use to which the leased premises may be put;
  7. Defines and specifies the obligations of each of the lessor and the lessee for:
    - a. payment of real estate taxes,
    - b. payment of special tax assessments,
    - c. providing and paying for fire and casualty insurance on the leased premises and on any personal property contained therein, and
    - d. providing and paying for the various items of (and all items of) maintenance, repair and replacements for the various parts and components of all improvements making up the leased premises or serving same.
  8. Defines and specifies those conditions under which the lessee will be in breach and default under the lease and the lease may be terminated;
  9. Defines any right of either the lessor or the lessee to terminate the lease, and the manner in which such right must be exercised;
  10. Defines the manner in which any notice given under the lease is to be given and the location or address to which such notice should be forwarded or at which it should be delivered;
  11. Defines any obligations which either party under the lease may have to indemnify the other party under the lease against any claims or actions; and
  12. Defines the condition of the leased premises which must exist at the conclusion of the lease term or its termination.
- L. It is permissible to secure the temporary use of real property owned by others by license or permit. Generally, licenses or permits are short-term and are revocable by the owner.
- M. The Director will keep and maintain permanent records for all real estate acquisitions as required by statute.

#### V. Approval Process

The Director or Director's designee will present to the Board information regarding the potential use, benefits and estimated costs of the proposed real estate.

The Board may approve a direction to proceed with negotiations for a specific property with a majority vote of the members present. With a quorum of each of the individual library district boards, the Board must approve the acquisition, ongoing maintenance, operation and any necessary budget amendments prior to the completion of the contract.

If an individual district board plans to acquire real estate without the use of funds from the DBRL Operating Budget, each individual district board must approve, with a majority vote of the members present, the ongoing maintenance and operation of the property by the regional system prior to the completion of the contract.

#### VI. Sale or Lease of Property

The Board shall consider disposal of any real estate owned by the regional system but no longer needed for library purposes. Disposal of such property shall be in the manner prescribed by state law and in keeping with other appropriate real estate procedures.

The Board may direct and authorize the sale, lease or transfer of any real estate belonging to the regional system with a majority vote of the members present.

Whenever the Board approves the sale of real estate owned by the library, the Director or Director's designee shall:

- A. Seek the maximum legal financial return from the sale or lease. However, this general objective shall not preclude transactions made on a negotiated basis when permitted by law.
- B. Utilize the assistance of people who have expertise in the sale or lease of such property, including commercial real estate agents, appraisers and marketing professionals.
- C. Reserve the right to reject all bids whenever the Board decides the price offered is too low.