

ONEIDA TRIBE OF WISCONSIN STANDARD OPERATING PROCEDURE	TITLE: Distribution of Tribal Commercial Land to Oneida Tribe, Tribal Corporations, Tribal Members and Others for commercial development and leasing.	SOP NO. 67.2.3-3 DATE:10/15/2002 REVISION DATE:
DIVISION: Oneida Division of Land Management	APPROVED BY: <i>Manager/Supervisor</i> Mary Jo Nash, Real Estate Services Area Manager	DATE: 7/12/2004
DEPARTMENT: Real Estate Services	APPROVED BY: Chris Doxtator, Land Director	DATE: 7/12/2004
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1 PURPOSE

To provide a written process on how the Land Commission distributes tribal commercial land to Oneida Tribe, Tribal Corporations, Tribal Members and Others for commercial development and leasing.

2 DEFINITIONS

- 2.1 Land Use Technical Unit (LUTU) is staff members from various Tribal Departments to collectively analyze data in order to make recommendations on the land use.
- 2.2 Site Analysis is a report from the Oneida Planning Department outlining the minimum information necessary for the development to start. This may include building set back, tribal zoning relating to the permitted and prohibited uses, road access, restrictive covenants, flood plain regulations, water, sewer, gas and electricity availability, utility and storm water easements.
- 2.3 Capitalization Rate also known as the CAP rate is a rate of return used to derive the capital value of an income stream. Value equals annual income/capitalization rate.
- 2.4 Oneida Tribe Priorities in distributing tribal commercial land will be offered as follows:
1. Oneida Tribe includes all its divisions, departments, programs, services, approved boards and commissions and enterprises.
 2. Oneida Charter Corporations are defined as tribal corporations chartered under the laws, ordinances and jurisdiction of the Oneida Tribe. Tribal corporations must own 51% of the partnership and limited liability company.
 3. Individual Tribal Members are defined as members enrolled or eligible to be enrolled in the Oneida Tribe of Indians of Wisconsin.

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4. Others are defined as other non tribal entities such as individuals, businesses, corporations, partnerships, limited liability company and tribal members owning less than 100%.
 - 2.5 Triple Net Leases are defined as leases which the lessee/tenant pays all of the operating expenses such as real estate taxes, insurance, utilities, license fees, repairs and maintenance.
 - 2.6 Land Use Process is defined as the approved process under the Standard Operating Procedure.
 - 2.7 Concept Paper is defined as an idea, plan or scheme outlining the vision or goal of business plan. It can be a condensed version of the business plan. It must provide enough information on the operations of the business.
- 3 PROCEDURES
- 3.1 All tribal lands ready for commercial development will be compiled on a list as commercial lands ready to be distributed. The commercial land list will be placed on the Land Commission agenda. In order that land be considered ready for development, it must have the first five items completed.
 - 1 There are no leases or the Agricultural lease term is 3 years or less.
 - 2 The Land Use process has been completed by the Land Use Technical Unit.
 - 3 The Land Commission has approved the LUTU's recommendation
 - 4 Tribal Zoning is compatible with existing counties' zoning
 - 5 Tribal Zoning has issued a land use permit
 - 6 The Title search has been completed and it shows no liens, outstanding leases, encroachments and restrictions which would prevent a clear title. Title searches are waived if acquisitions are less than six months old.
 - 7 The Site Analysis indicates there are no adverse concern which may prevent the development from occurring.
 - 3.2 The Commercial Leasing Specialist will notify the Tribe and Tribal Corporations that commercial land is available for development. The Tribe and Tribal Corporations will have 60 days to respond.
 - 3.3 In addition, the Commercial Leasing Specialist will verify whether tribal lands have been set aside for other purposes by reviewing the following:
 - 1 Tribal Comprehensive Plans
 - 2 Oneida Register of Deeds for leases, memorandums of understanding, resolutions, Land Use agreements, Options to Lease,
 - 3 Land Commission Minutes
 - 4 Capital Improvement Process

- 3.4 The Commercial Leasing Specialist will send all inquiries for commercial property received from the Oneida Tribe and Tribal Corporations including the calculation of land lease fees to the land commission for approval. The leases fees for the first and second priorities are based on:
- 1 The annual lease fee will be determined by multiplying the actual purchase price or the appraised value by the CAP rate.
 - 2 The minimum CAP rate will be 3% lower than the local markets CAP rate.
 - 3 The maximum CAP rate will be the local CAP rate.
 - 4 Real estate taxes on the land are paid by the Division of Land Management on leases to the Oneida Tribe.
 - 5 Land leases to Tribal Corporations are on a triple net basis.
- 3.5 The Oneida Land Commission will select one first priority or one second priority in that order. Once a selection is made, the next step is to start the leasing process by providing the applicant with a copy of the Division of Land Management Standard Operating Procedure for Leasing on tribal fee or tribal trust land. If the applicant is not ready to develop, the Land Commission may set the land aside by executing a Resolution or by an Option to lease.
- 3.6 If there are no responses from the Oneida Tribe and Tribal Corporations, the Commercial Leasing Specialist will calculate land lease fees for the Third Priority (Tribal Members) based on:
- 1 The annual lease fee will be determined by multiplying the actual purchase price or the appraised value by the CAP rate.
 2. The minimum CAP rate will be 3% lower than the local markets CAP rate.
 3. The maximum CAP rate will be the local CAP rate.
 4. Real estate taxes on the land are paid by the Division of Land Management.
- 3.7 Commercial Leasing Specialist prepares and submits an advertisement in the Kaliwisaks, Tribal E-Mail and Division of Land Management Web Page after the land lease fees are approved by the Land Commission. The advertisement will be for tribal members to apply and will include the following information
- 1 A Deadline Date and contact person
 - 2 Land Lease fee
 - 3 Lease Application
 - 4 Land Survey with legal description if available
 - 5 Zoning Information on the land use

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- 6 Site Analysis
 - 7 Other helpful Information
- 3.8 Commercial Leasing Specialist will collect all applications submitted by tribal members. Each application will be weighted based on the following:
- 1 Submission of application is received by the deadline date.
 - 2 Tribal Member is an enrolled or eligible enrolled member of Oneida Tribe of Indians of Wisconsin.
 - 3 The business is wholly owned by an enrolled member
 - 4 Sound credit rating of the Tribal member submitting the application.
 - 5 Tribal Member has submitted a good concept paper. Business Plans are not required at this time but if they are available, we will have them reviewed by a qualified person.
 - 6 Tribal Member has attended business classes or other similar classes.
 - 7 Tribal Member has no past due amounts owed to the Oneida Tribe or tribal entities
 - 8 Tribal Member proposed land use is in compliance with tribal zoning and LUTU report.
 - 9 Tribal Member has the capabilities or has assistance in the development of land.
- 3.9 A summary of scoring will be submitted for the Land Commission to select one tribal member to lease. The next step is to start the leasing process by providing the tribal member with a copy of the Division of Land Management Standard Operating Procedure for Leasing on Tribal fee or Trust Land.
- 3.10 If no applications from tribal members are received, the Land Commission may request the Commercial Leasing Specialist to verify if any application were received from the first, second and third priorities after the deadline date, start the process over or request applications from Others.
1. Consider any applications received after the deadline date from the first, second and third priorities.
 - 2 Re advertise to the first, second or third priorities
 3. Start advertising to others.
- 3.11 Land Commission will approve advertising to Others. The Commercial Leasing Specialist will calculate the minimum land lease fees for other entities by taking
- 1 The annual lease fee will be determined by multiplying the actual purchase or the appraised value by the CAP rate.
 - 2 The local market is the minimum CAP rate.
 - 3 Land leases to Others are on a triple net basis.
 4. Land Lease Fees are negotiable to the highest and best return possible.

- 3.12 The Commercial Leasing Specialist will collect the applications submitted by Others. Each application will be weighted based on the following:
1. Submission of application is received by the deadline date.
 2. Sound credit rating of the applicant.
 3. A good concept paper.
 4. Propose land use is in compliance with tribal zoning.
 5. No past due amounts owed to Oneida Tribe or it entities
- 3.13 A summary of scoring will be submitted to the Land Commission to select one applicant. The Land Commission may request the Commercial Leasing Specialist to negotiate higher land lease fees and or terms of the lease before making a selection. Once the selection is made, the next step is to start the leasing process by providing a copy of the Division of Land Management Standard Operating Procedure for Leasing on Tribal Fee or Tribal Trust Land.

4 REFERENCES

- 4.1 Real Property Law
- 4.2 Oneida Zoning Ordinance
- 4.3 Oneida Land Use Plan approved by LC on 7/1/2003
- 4.4 Administrative Procedures Act
- 4.5 Due Process Guidelines

5 FLOW CHART

5.1 How to Distribute Commercial Lands

6 RECORDS

- 6.1 All applications are stored in the file room for six months only.