

Surplus Lands and Community Rights

presentation by
John Andrews, President, MCHC
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Massachusetts Coalition for Healthy Communities

*Building Connections, Advancing Solutions
for Justice and Health in the Commonwealth*

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Chronology of Surplus Land Legislation

1981: Chapter 7 enacted as part of Ward Commission reforms.

1991: Gov. William Weld proposes that state be able to sell surplus land without legislative approval. Bill does not pass.

2000: Governor Paul Cellucci proposes a fast-track sale of state properties. Bill does not pass.

2003: Outside Section 548 passes without public hearings. Provided for sale of public land at auction after only 30 days notice. Effectively precludes community involvement in disposition of surplus land.

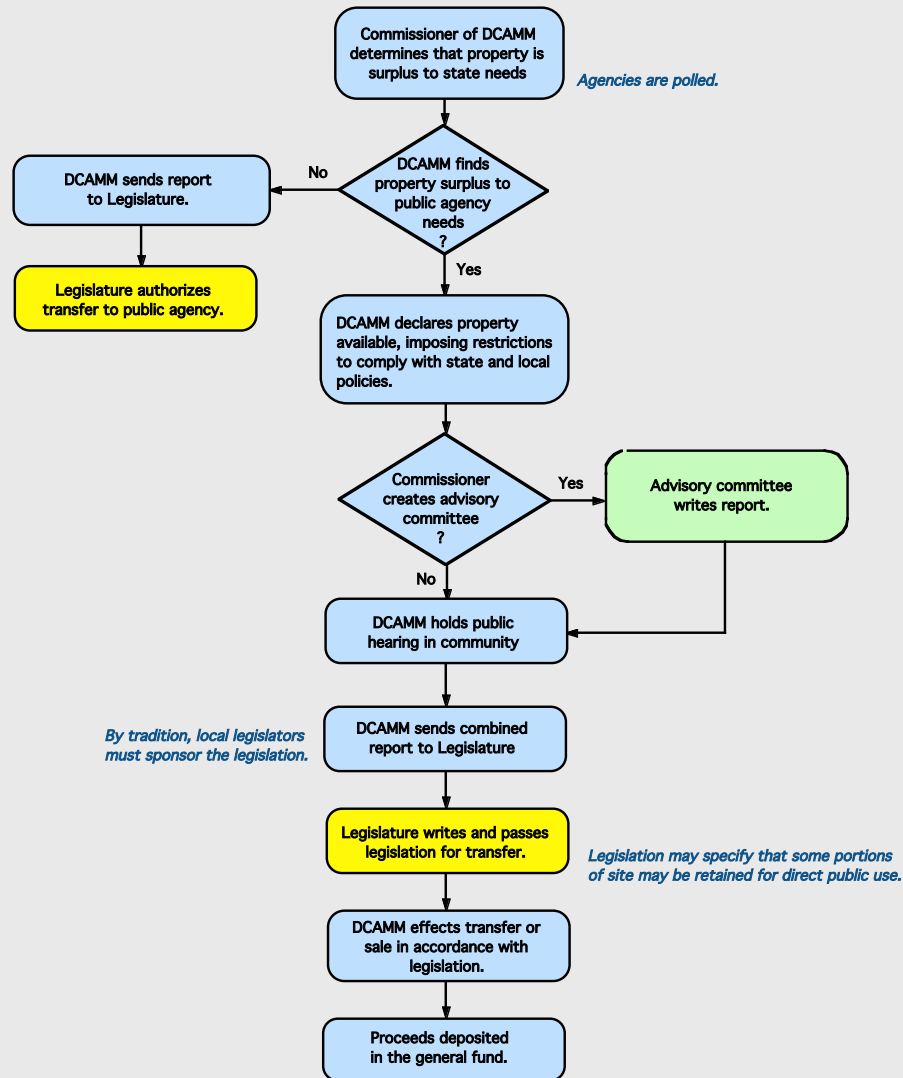
2004: Statewide campaign to restore Chapter 7 launched by Jill Stein who calls OS548 the “Fast Track Auction Law”. Widespread opposition to OS548 arises across Massachusetts.

2005: Legislature declines to renew OS548. Chapter 7 restored.

2005: H4491 (“Jones-Stanley”) offered as an alternative to Chapter 7. Bill does not pass.

2006: House and Senate pass different versions of new law. Conference committee fails to reconcile the two. Chapter 7 continues.

Chapter 7 Land Disposition Process



Michael Hogan, MassDevelopment

"The process for disposing of state assets is badly broken . . . Special legislation is drafted that dictates what can and can't be done. You end up with a master plan that the local community drives."

- Michael Hogan, president of MassDevelopment, quoted in Boston Globe, 12/23/02

Speaker Salvatore DiMasi

“We have all this state surplus land that we can zone ourselves **without interference of local municipalities. We'll do that, give them a five-year tax break, and all they've got to do is promise to create at least 100 jobs and grow by 5 percent a year.”**

- Speaker Salvatore DiMasi, 3/18/05

David B. Perini, DCAM

”I urge the committee to support the Jones-Stanley bill.”

- DCAM Commissioner David Perini, testifying before the Joint Committee on Bonding, Capital Expenditures, and State Assets, 5/11/05

Support for Chapter 7

“(Chapter 7) was more democratic and it preserved the local towns' and cities' rights to provide input as to the potential uses of public land. . . That's the crux of the issue: It's local rights for public land.”

- Waltham City Councilor George Darcy, Boston Globe, 4/11/05

What Should We Look For?

1. Protecting the Public Interest in Public Land

- Public Interest Priority
- Openness
- Fair Competition
- Accountability

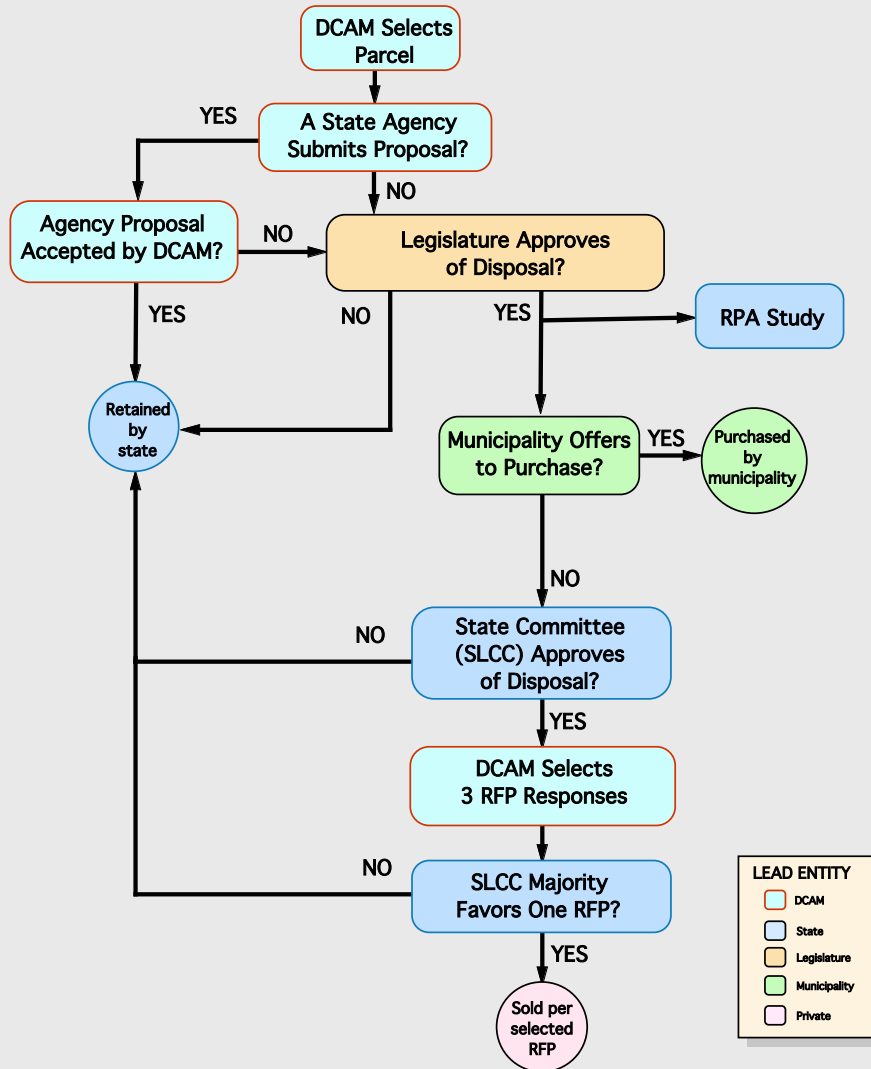
2. Local Guidance

- Formal Local Reuse Committee
- Local participation in key decisions

3. Good Planning

- Objective Assessments of Long-term Impacts
- Consistency with local/state planning
- Balancing of Priorities
- Follow-through

H3781 Land Disposition Process



The property “shall be designated by the economic assistance coordinating council as an **economic target area**, an economic opportunity area, and a certified project. . . and . . . shall be eligible for all the incentives and benefits provided by the economic development incentive program.”

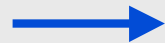
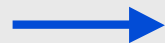
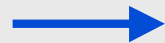
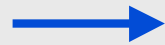
“Zoning ordinances or by-laws may also provide that research and development uses, whether or not such uses are currently permitted as a matter of right, may be permitted in any non-residential zoning district upon the issuance of a **special permit**“

“upon certification by the commissioner of the division of capital asset management and maintenance that a host municipality **expedited permitting** in accordance with part (i) of subsection (g) of section 40F_ of chapter 7 or took other affirmative actions, which **at the discretion of the commissioner, furthered the commonwealth's objectives for the parcel**, shall be entitled to **20 per cent** of the remaining net cash proceeds“

The Legislative Vote

Chapter 7 (Met State Example)

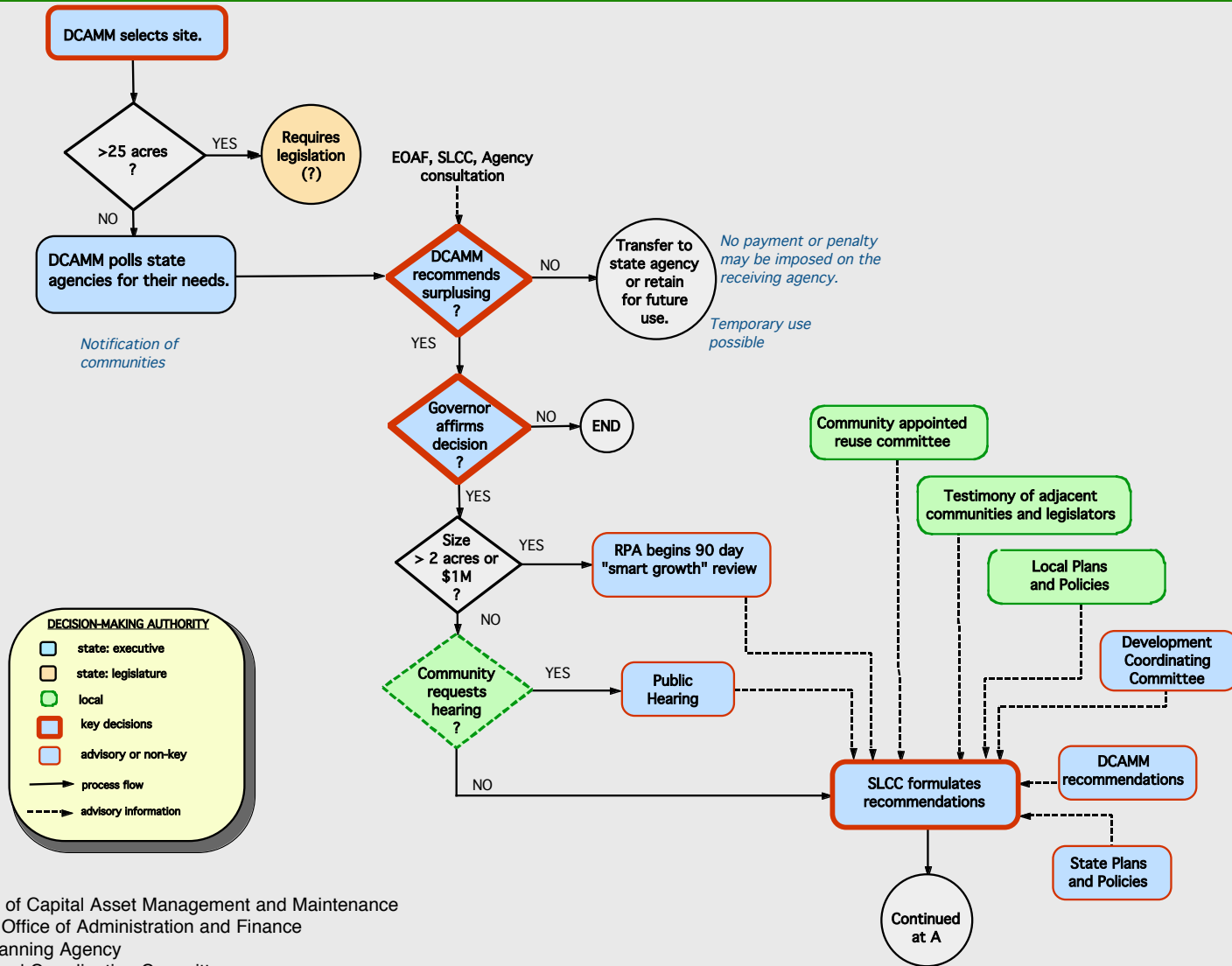
- Vote is on legislation written by local legislators.
- Legislation implements the reuse plan.
- Reuse studies are available.
- Community consensus represented by Reuse Committee.



House Proposal

- Vote is on proposal to surplus submitted by DCAM.
- No reuse plan exists.
- No reuse study yet exists.
- No authority for community consensus.

S1267 Land Disposition Process (1 of 2)

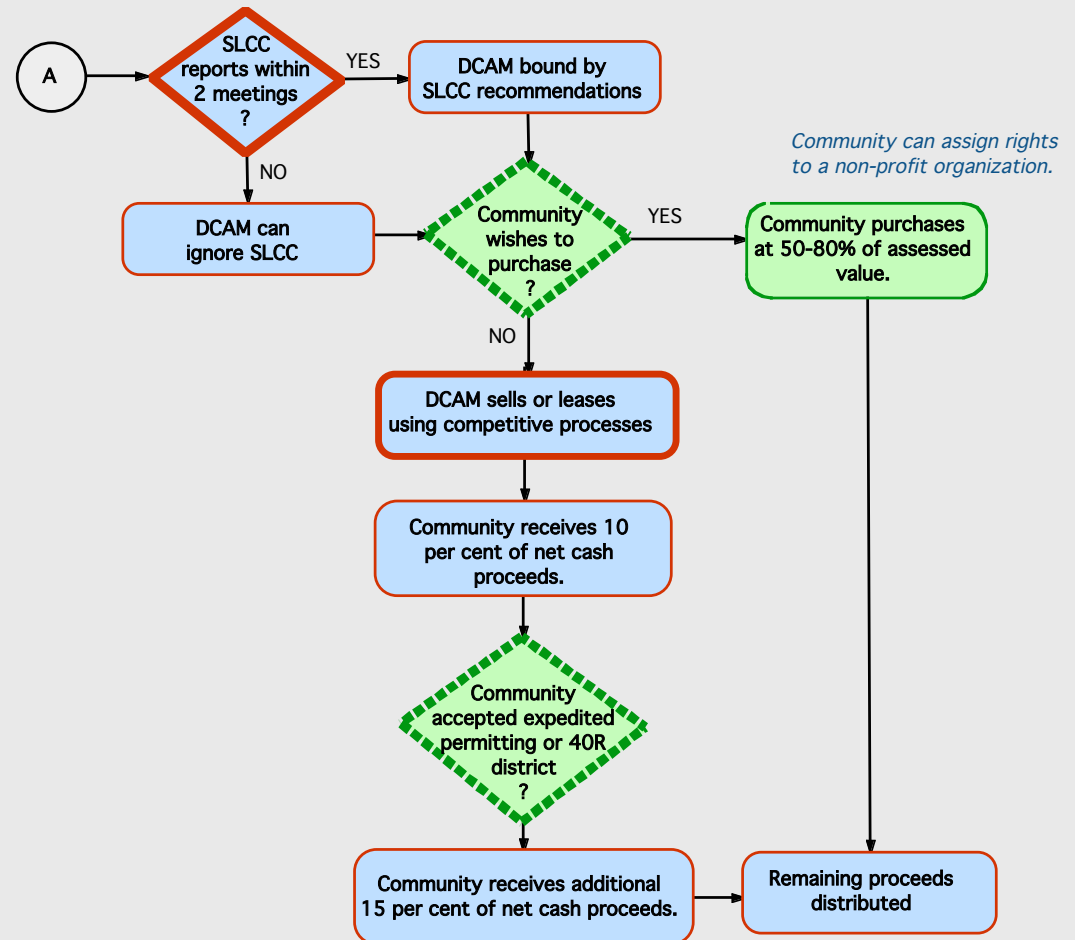


S1267 Land Disposition Process (2 of 2)

“**Preference** shall be given to ensuring that real property is made available for **state needs** and not permanently disposed, where a state agency has submitted a timely written response specifying a current or foreseeable need for the property. **An agency shall not be required to purchase or make payment**, whether directly or indirectly, by a reduction in a capital or budgetary account or by any other means, to acquire property or part thereof . . .”

“The commissioner **shall** dispose of all surplus real property in a manner substantially consistent with the **recommendations of the committee**. If the committee does not recommend appropriate uses for the property after (1) the parcel has been declared surplus, (2) the committee has had two subsequent meetings, and (3) 14 days have elapsed after the second meeting, the commissioner may dispose of the property **without a recommendation** from the committee in a manner consistent with this chapter.”

“Not more than **10 per cent** of the net cash proceeds from the sale or lease of each such property shall be paid to the host municipality where the real property is located; but if the commissioner certifies that the municipality has **expedited permitting**, has adopted an approved **smart growth zoning district** under chapter 40R, or has taken other affirmative actions to **further the commonwealth's objectives** for the parcel consistent with the commonwealth development coordinating council's smart growth principles, and the smart growth review when available, then the host municipality shall be eligible for up to a total of **25 per cent** of the net cash proceeds. . .”



DCAMM = Division of Capital Asset Management and Maintenance
EOAF = Executive Office of Administration and Finance
RPA = Regional Planning Agency
SLCC = Surplus Land Coordinating Committee

Members of SLCC

State Surplus Land Coordinating Committee

- Executive Office of Administration and Finance
- Executive Office of Transportation and Construction
- Executive Office of Economic Development
- Executive Office of Environmental Affairs
- Department of Housing and Community Development
- Division of Capital Asset Management (DCAM)
- Massachusetts Municipal Association
- Commonwealth Development Coordinating Council
- MassDevelopment
- Mass. Assoc. of Regional Planning Agencies
- Mass. Assoc. of Community Development Corporations

KEY

Gubernatorial Administration

Public, non-profit

Regarding The Future of Lexington's Lot 1

- Under Chapter 7, Lexington area legislators, accountable to the voters, will determine the specific fate of Lot 1. *This tends to block any reuse that does not have community support.*
- Under proposed reforms, the key point for local input is attachment of conditions on the decision to surplus the property. *This is a limited safeguard that can easily fail if seen as incompatible with goals of the Governor or the legislative leadership.*
- The current Senate bill exempts properties greater than 25 acres - which would keep Chapter 7 in place for Lot 1. *This number could change in conference committee.*

Smart Growth

“Smart growth is a principle of land development that emphasizes **mixing land uses**, increases the availability of **affordable housing** by creating a range of housing opportunities in neighborhoods, takes advantage of **compact design**, fosters **distinctive and attractive communities**, preserves **open space, farmland, natural beauty and critical environmental areas**, strengthens **existing communities**, provides a variety of **transportation choices**, makes development decisions **predictable, fair and cost effective** and encourages **community and stakeholder collaboration in development decisions.**”

- MGL Chapter 40R

Closing Thoughts

- **The goal of the disposition process should to use public land for the greatest public good. It shouldn't be a way for the Legislature to squeeze money from municipalities.**
- **If local expertise is marginalized, it isn't smart growth.**
- **When decisions are made behind closed doors by state panels, the interests of the most directly affected community people tend to be subjugated to the agenda of Beacon Hill insiders.**
- **Adequate public participation requires transparency and sufficient time. Expedited processes tilt the playing field toward insiders and away from the public.**
- **Public lands may play a key role in adapting our communities to global warming, peak oil, and the challenges of sustainability. Short-term fiscal goals and poorly conceived ideas of economic development need to be replaced by a longer-term, more comprehensive vision.**

For text of bills and flowcharts:

www.masschc.org

The End

Thank You!