

**Comments to Draft City Disposition Policy**  
**Feedback from PUFN and FORC meetings and synthesis of best practices**  
**Johanna Rosen, Mill Creek Farm and FPAC member**  
**Amy Laura Cahn, Garden Justice Legal Initiative**  
**December 22, 2011**

Over the course of two weeks since the December 12, 2011 Food Policy Advisory Council (FPAC) vacant land subcommittee meeting with the Redevelopment Authority (RDA), we have spoken with over one hundred individuals engaged in farming, gardening, and food access work. The bulk of these conversations occurred in the context of two meetings, held on December 13<sup>th</sup> and 14<sup>th</sup>.

The first meeting was convened by the Philadelphia Urban Farmers' Network (PUFN) and held at the SHARE Food Program warehouse, in North Philadelphia. The second meeting was sponsored by the Food Organizing Collaborative (FORC), the Garden Justice Legal Initiative of the Public Interest Law Center of Philadelphia, and South Kensington Neighborhood Partners, and was held at FINANTA in Kensington. Approximately 95 gardeners and farmers attended these two meetings. We have continued to reach out to additional stakeholders for feedback on the draft policy.

We have compiled this stakeholder feedback and developed the following comments and recommendations, informed by research on best practices conducted over the past several months by law students working with the Garden Justice Legal Initiative.

We view this feedback as generally consistent with and important background to the comments and recommendations put forth by the FPAC vacant land subcommittee. We also believe this feedback will be relevant as RDA moves towards implementation.

**I. There is need for a more transparent public process and more community engagement in the development of vacant land policy.**

The groups with whom we spoke represented individuals from broad span of Philadelphia neighborhoods. These individuals are engaged in a wide variety of gardening and farming projects across the city, or are looking for opportunities and employment in the field. They expressed that there was not enough time to fully understand and comment on the proposed policy. Those who have been in communication with City agencies and with their neighborhood CDCs also expressed frustration about the lack of transparency up till now as last week was the first they had heard of the policy.

Further, the groups with whom we spoke do not adequately represent the gardeners who have been engaging in food production and reclamation and stewardship of vacant and abandoned property the longest, in the greatest numbers, and with the vastest cultural resources and knowledge. Many, if not most, of these gardeners are part of the long-established community gardening system in Philadelphia.

We wish to specifically highlight the lack of voices in this process from African American and immigrant communities. African American gardeners who migrated to Philadelphia generations ago from farming communities established many of the City's long-standing gardens. Similarly, many immigrant communities are now struggling to

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find land to engage in gardening that reflects their home cultures, but finding it hard to negotiate the land tenure situation. Both of these groups are missing from citywide dialogues such as those conducted this week, disproportionate to their valuable engagement in gardening, food production, and vacant land stewardship throughout Philadelphia. More dialogue and outreach are necessary to determine the needs of farmers and gardeners in these communities.

**II. Policy definitions should reflect the new zoning code and the broad scope of projects happening in Philadelphia.**

Consistent with the FPAC proposed policy, we recommend that definitions should follow the new zoning code. The zoning code uses the term “urban community agriculture” as an umbrella category encompassing several types of gardening and farming. The code defines “community gardening” and “market or community-supported farms” as two subsets of urban agriculture.

The distinction between the two is in purpose. One stakeholder made a qualitative distinction between the two: community gardening has “emphasis on building community and the means to do that is gardening.” In contrast, the emphasis for market farms is “primarily on growing.” As per the zoning code, the distinction between the two is that of non-commercial and commercial growing.

**Community Gardens**

The primary purpose of community gardening is to grow food for the people who maintain the garden, for the surrounding community, or for free distribution through food pantries or informal distribution systems that often involve community institutions such as churches or senior citizens’ centers. Sale of small amounts of surplus is allowed as an incidental use.

“Individual community garden” can be seen as a subcategory of community gardeners that is similar in purpose.

**Market Farming**

The primary purpose of market farming is growing food for sale. Market farming in Philadelphia reflects a significant range of structures, purposes, and farming models. Market farms range from for-profit entrepreneurial projects to low-profit enterprises to non-profit organizations with produce and value-added product sales. In purpose, market farms may be engaged in education and youth leadership; job creation and training; provision of re-entry opportunities; and community building, as well as large and small scale food production and access. Market farmers are primarily engaged in human scale intensive farming, but use a variety of models, including raised beds, in-ground production, hydroponic and aquaponic projects, and greenhouses and hoop houses.

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**III. The current policies related to community gardens and individual community gardens do not reflect the current realities of existent projects.**

Consistent with the FPAC proposed policy, we recommend that policies, terms, and procedures for community gardens should be more responsive to the capacity of those organizations. We agree that an insurance requirement should not be imposed immediately, and we would go further to recommend a two-year window to figure out making insurance accessible. We further agree that alternatives to nonprofit status should be allowed and propose below criteria by which community gardens can demonstrate their organizational stability.

Finally, while Urban Garden Agreements can be one option among several, we do not believe a one-year license reflects community needs or investment and should not be the prevailing method by which gardening is supported or encouraged. To this end, we agree with the proposal of the FPAC that policies be developed to support the continued development of market farms.

**Community Gardens**

The requirements, under the current draft policy, of nonprofit status and liability insurance could be possible if a nongovernmental partner or partners emerged to provide the necessary infrastructural support to community gardens through access to low cost liability insurance and fiscal sponsorship.

However, Philadelphia currently has no sponsoring agency for community gardens and most gardens do not have the resources to purchase policies independently. There are currently no liability insurance products geared towards the needs of community gardens, although there are some in development. Thus, the current requirement of liability insurance for community gardens will be a huge hurdle due to both availability and cost and will make gardening prohibitive for some. A two-year window is needed to develop a structure by which liability insurance can be made accessible and affordable to community gardens.

Further, the current requirement of nonprofit status is both cost-prohibitive and not reflective of the organizational structure of many community gardens, which often rely on strong community ties, rather than formal structures. As an alternative to nonprofit status, we recommend that the applicant either (1) name a community organization partner and/or (2) provide a list of three members of garden leadership and a minimum of ten stakeholders to sign on in support of the project.

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**Individual Community Gardens**

We understand that the Urban Garden Agreements may be one avenue by which individual community gardeners access vacant land and could be useful for individual circumstances, for example short-term blight reduction and demonstration projects. However, the parameters of this category do not reflect the needs of those gardeners and farmers with whom we spoke.

**Market Farming**

The draft policy should incorporate policies that allow market farming the opportunity to continue to flourish in Philadelphia.

**IV. In developing additional policies, gardeners and farmers can be creative about lot size and location, but need longer time on sites to develop projects, as well as engagement in city and community planning efforts with respect to neighborhoods and particular lots.**

Consistent with the FPAC proposed policy, we recommend that policies, terms, and procedures be developed in consultation with end users and in the context of larger planning efforts. We wish to highlight both the flexibility of gardeners and farmers regarding siting of new projects and the need to provide leases of at least three years with a three-year renewal option for any project that involves any significant financial, infrastructural, or community investment.

**Role of Planning**

Gardeners and farmers expressed that citywide, district, and community planning can be key to identifying appropriate and desirable sites for urban community agriculture. They understand the need to prioritize more and larger spaces for both market farms and community gardening where needs related to vacant land stewardship and food access are critical. However, there is also a need to recognize that neighborhoods throughout Philadelphia, including high-density neighborhoods and those facing development pressure, also benefit from and desire food-producing community gardens. Thus, there is a need to develop targets and standards by which community gardens are located and supported as a valuable end use in neighborhoods throughout the City.

Gardeners and farmers wish to engage in these planning conversations. As well, they wish to know and understand the City's plans for both specific lots and larger areas so that they can make appropriate decisions about shorter- and longer-term investments in particular locations. They suggested that lease terms could take into account the long term plans for a parcel, which could provide for a longer lease term with the knowledge that another form of development was expected for that parcel after a period of years.

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**Lot Size**

There is appetite for and project models that are compatible with fragmented inventory and infill projects. Minimum requirement for a market farm or community garden could be as small as one house lot although placement of gardens on such small infill lots needs to take into account available sunlight. Access to at least one half acre would be more likely make a market farm cost effective, although the parcels do not necessarily need to be contiguous, just close in proximity.

**Lease terms**

Three years with a three-year renewal option is the absolute minimum lease term appropriate for annual vegetable production. This takes into account the investment necessary for lot cleanup and clearing, testing for and remediation of toxics, soil building, and infrastructural needs, as well as the time it takes to make a project sustainable from organizational, financial, and community building standpoints. Local and national gardening and farming practitioners have emphasized that a ten-year lease is a realistic baseline for market farming.

Many gardeners suggested having a trial period and, if the project proves successful, offering an option to renew the lease or purchase land.

**V. There is need for additional clarity about cost with regards to lease terms and discounted sales.**

Consistent with the FPAC proposed policy, we recommend that further conversation and clarity is needed regarding the financial terms of transactions with gardeners and farmers.

Some gardeners and farmers did express a willingness to pay to lease land, although this would be cost prohibitive to many. They also understand that conveyance may return the land to the tax rolls, depending on the type of project, and saw the benefit of that to the City. There is also a lack of understanding about what constitutes a discounted sale.

**VI. Philadelphia can draw from the policies developed by other municipalities and community land trusts for determining criteria for both longer leases and sales.**

Consistent with the FPAC proposed policy, we recommend the development of a Request for Proposal (RFP) process to be elaborated upon subsequent to the release of the City's disposition policy. This RFP process will establish the necessary threshold requirements needed to apply for a long-term lease or conveyance. Project requirements should reflect the requirements set out in the City disposition policy for a qualified bid.

The details of our recommendations for project requirements have been incorporated directly into the FPAC draft revisions. These criteria, as well as recommendations on lengths of leases, are drawn from municipal policies developed in Baltimore, MD;

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Lawrence, KS; Minneapolis, MN; New York, NY; Cleveland, OH; Portland, OR; Seattle, WA; and Milwaukee, WI, as well as criteria developed by community garden land trusts in Baltimore, MD; Chicago, IL; Milwaukee and Madison, WI; and Providence, RI.

We further recommend that projects be evaluated periodically to assure that (1) the area is clean, attractive, and safe; (2) hardscape and softscape areas are maintained adequately; and (3) the project is continuing to engage in its stated purpose

Similarly to the City's subcontracted vacant land maintenance programs, a nongovernmental partner or partners should be found to aid in implementing the project, reviewing applications, and conducting periodic evaluations. This could occur on a neighborhood or citywide basis.

**VII. Gardeners and farmers emphasize that the significant and wide-ranging benefits their work brings to communities require an investment towards continuity and permanence.**

Finally and also consistent with the FPAC proposed policy, we wish to provide some background regarding the need for mid- and long-term leases and conveyance.

Urban agriculture projects are inevitably tied to the land on which they establish themselves. Farmers and gardeners expressed to us that mid- and long-term lease structures and conveyance are valuable and appropriate for urban agriculture for several reasons.

First, establishment of a new garden or farm requires significant input of time and financial resources. This includes site preparation (clearing of brush; trash and debris; grading; soil testing, remediation and amendment); access to utilities including water; and site construction (greenhouses, storage facilities, and construction of raised beds).

Second, the community engagement necessary to build a sustainable, accessible, and accountable project requires significant time for creating community trust, buy-in, and pride in the project as a community resource. Engaging community members without assurance of a multi-year commitment from either the project leadership or the City as lessor will cripple this trust-building process and the lack of certainty may hamper the establishment of similar projects in the future.

Third, while annual vegetable production can be possible in one-year increments, many farmers and gardeners prefer to establish perennial crops, such as strawberries and asparagus, as well as fruit trees. Further, soil quality improves markedly over time and with significant farmer effort. This resource cannot be relocated with a project.

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Fourth, if certain land is designated as appropriate for long-term use for food production, this allows the necessary infrastructure to be developed around it and it creates a system for people to access that land in the future.

Fifth, urban agriculture projects invest in the health of communities. For example, gardens provide the resources, education, and activities to address health issues such as heart disease, diabetes, and obesity. Similarly, urban agriculture has proven an excellent opportunity for individuals returning to their communities from periods of incarceration, drug treatment, and homelessness. These benefits to community health are developed over time and rely on an ongoing presence and continuity of the project.

Finally, both non-profit and for-profit urban agriculture projects will rely on external funding sources for startup and ongoing programmatic costs. Funders want to see a return on their investment, whether through a project demonstrating its profitability or in meeting organizational goals. This requires a longer-term investment and commitment by all involved.

The farmers and gardeners with whom we spoke recognize that mid- and long-term leases and conveyances are not appropriate in all neighborhoods and for all vacant land. Rather, they emphasized the need to take a more holistic approach in looking at neighborhoods to determine where urban agriculture would best serve the needs of the community, in concert with other plans for the surrounding neighborhood. Once land is identified as suitable and appropriate for urban agriculture in some form, such projects need the opportunity to take root for the long term.