
DISPOSAL OF REAL PROPERTY

Title to land held by the Board in trust for educational purposes under the terms of the original Crown grant is subject to reversion to the Crown when no longer required for educational purposes, under section 99 of the *School Act*. Otherwise, when real property becomes surplus to Board needs, it may be used for other purposes or sold, subject to the terms of this policy.

The Board has the responsibility for the disposal of its real property, which includes lands, buildings and other improvements, leases, right-of-way, easements and land dedications. In accordance with the *School Act*, the Board may, subject to the Orders of the Minister of Education (the "Minister"), dispose of land, improvements or both (a "Facility").

1. The Board may:
 - 1.1 Dispose of a Facility by fee simple transfer or by a lease for a term of ten (10) years or more, including all options and rights of renewal (a "Long Term Lease"), to another school board or an independent school for educational purposes,
 - 1.2 With the approval of the Minister, dispose of a Facility by a fee simple transfer or Long Term Lease of a Facility to a transferee or lessee other than another school board or an independent school for educational purposes,
 - 1.3 Dispose of a Facility by a lease for a term of less than ten (10) years, including all options and rights of renewal (a "Short Term Lease"), or
 - 1.4 Dispose of an interest in a Facility that is less than a fee simple interest, such as an easement, covenant or right of way.
2. The Board shall not proceed with a disposal of a Facility under Section 1.2 unless:
 - 2.1 The Board has considered the current and future educational needs of the Board, including early learning and adult education, and is satisfied that the Facility will not be required for the Board to meet those needs,
 - 2.2 The Board has considered potential alternative uses of the Facility for community purposes other than the educational purposes of the Board, after broad consultation with local government, community organizations and the general public, and
 - 2.3 The disposal has been approved by the Minister.
3. The following procedures apply to a disposal under Section 1.1, Section 1.3 or Section 1.4, and to a disposal under Section 1.2 in respect of which the requirements in Section 2 have been met:
 - 3.1 The Board passes a capital bylaw declaring the interest to be granted surplus to the needs of the Board, and instructs Board staff to proceed with the disposal. The bylaw must include confirmation that the Board will not require the disposed interest for future educational purposes, and the name, facility number, address and legal description of the affected Facility.

- 3.2 The Secretary-Treasurer or designate(s) will:
- 3.2.1 Undertake necessary steps to create a separate legal parcel for the Facility, if it is to be subdivided from a “parent” property to remain in the ownership of the Board,
 - 3.2.2 Arrange for preparation of a legal survey plan showing the boundaries of the Facility or interest to be granted, where appropriate,
 - 3.2.3 Obtain reasonable, independent evidence of the fair market value of the interest to be granted,
 - 3.2.4 Initiate the disposal process described in Section 3.3 of this Policy, and
 - 3.2.5 In the case of a sale of a Facility, establish where the proceeds shall be credited, either to the shareable capital reserve or the local non-shareable capital reserve in accordance with Section 100 of the *School Act*.
- 3.3 Any disposal of a Facility by fee simple transfer or Long Term Lease shall only be made in accordance with the following process:
- 3.3.1 The Board shall offer to dispose of the Facility in a public tender or other competitive bidding process, unless the Board proposes to dispose of the Facility:
 - a) to a not for profit corporation,
 - b) to a public authority,
 - c) to a person who, as part of the consideration for the disposition, will exchange land or an improvement with the Board,
 - d) to a person under a partnering agreement that has been the subject of a process involving the solicitation of competitive proposals, or
 - e) to an owner of adjoining land for the purpose of consolidating the lands.
 - 3.3.2 Regardless of whether Section 3.3.1 applies, the Board must only dispose of a Facility by fee simple transfer or Long Term Lease through a public process as follows:
 - a) If the disposition is to a person referred to in Section 3.3.1, then the Board may only proceed with the disposal after it has passed a bylaw at a public meeting of the Board approving the disposal, provided that the Board has published, on its publicly accessible website or in some other public manner, notice of its agenda at least seven days’ prior to the meeting, and the notice includes:
 - i) a description of the Facility,
 - ii) the person or public authority who is to acquire the Facility under the proposed disposition,
 - iii) the nature and, if applicable, the term of the proposed disposition, and

- iv) the consideration to be received by the Board for the disposition.
 - b) For all other dispositions by fee simple transfer or Long Term Lease, the Board shall post at the Facility a sign visible from a public street indicating the nature of the proposed disposition, and the Board shall publish a notice in a local newspaper for at least 2 consecutive weeks that includes:
 - i) a description of the Facility,
 - ii) the nature and, if applicable, the term of the proposed disposition, and
 - iii) the process by which the Facility may be acquired.
- 3.3.3 Any proposed transferee or lessee of a Facility must satisfy the Board that it has the ability to meet its financial obligations to the Board, and the Board must be satisfied that the disposition of the Facility is at fair market value.
- 3.3.4 Any disposal of an interest in land or improvements, including without limitation by fee simple transfer, road dedication, Long Term Lease, Short Term Lease or by granting of less than a fee simple interest, such as an easement, covenant or right of way, shall only be completed by the Board after approval by a capital bylaw authorizing the disposal, which bylaw shall include:
- (a) a description of the disposal, the name of the grantee and the purpose of the disposal,
 - (b) confirmation that the Board will not require the Facility for future educational purposes, and
 - (c) the name, facility number, address and legal description of the affected Facility.
- 3.3.5 The Board shall promptly notify the Minister of any disposal of land or improvements and the allocation of the proceeds as required under Section 100(2) of the *School Act*, and promptly deliver to the Minister a copy of the bylaw approving the disposal.

Reference: Section 65, 85, 100, School Act

Board Minutes

January 2007 Volume 49 Page 9

April 2008 Volume 50 Page 36 (accepted under Disposal of Real Property Bylaw 2007-1A)

May 2009 Volume 51 Page 59