

POLICY 650: Disposal of Land or Improvements

When land or improvements owned by the Board (collectively "the Real Property") becomes surplus to the needs of the School District, the surplus property may be disposed of in accordance with the School Act, applicable Ministerial Orders and this Policy and related Regulations.

The Board has the responsibility for the disposal of its Real Property and may, after considering future educational needs and school space requirements for the School District, deem a property no longer required for further educational purposes or other Board purposes and determine to proceed to dispose of such property.

In accordance with the School Act and applicable Ministerial Orders, the Board must not dispose of land or improvements by sale or transfer in fee simple or by way of lease of ten years or more unless such disposal is provided for in the Disposal of Land or Improvements Ministerial Order M193/08 or is approved by the Minister. The Board can dispose of land or improvements by way of lease, other than a lease of ten years or more, if such disposition is to an agency or organization for alternative community use.

The procedure to dispose of Real Property by sale or transfer in fee simple or by way of lease of 10 years or more is as follows:

1.0 Definitions

- 1.1 Fee simple: a permanent and absolute tenure in land and improvements with the freedom to use it and dispose of it without restriction in any way, except the usual laws, bylaws or building codes
- 1.2 Real property: land, including the land itself and any structures, fixtures, and rights associated with it.

2.0 Determination of Ownership

- 2.1 Prior to initiating the disposal of any Real Property, the Board will conduct a title search to confirm that the property is registered in the name of the Board of Education of School District No. 8 (Kootenay Lake) with fee simple ownership. The title search should include a determination as to whether the Real Property is held in trust by grant from the Crown, or subject to any registered charges or covenants.

3.0 Consultation

3.1 Once ownership has been determined in accordance with 2.1 above, prior to disposing of Real Property, the Board shall undertake, with education partners, Indigenous Rightsholders, local governments, community organizations and/or the public, such consultations as the Board may consider appropriate with respect to the Real Property involved. This consultation process shall include:

3.1.1 Consideration of future enrolment growth in the school district, including K-12, child care, adult programs and early learning;

3.1.2 Consideration of alternative community use of surplus space in school buildings and other facilities;

3.1.3 A fair consideration of the community's input and adequate opportunity for the community to respond the Board's plan for the Real Property.

4.0 Disposal Process

4.1 Following consultation, if the Board passes a resolution declaring the Real Property surplus to the needs of the School District and instructing School District staff to proceed with the Real Property disposal process, the School District staff shall:

4.1.3 When required pursuant to the School Act and applicable Ministerial Order, apply to the Minister for approval of the disposal.

4.1.2 Undertake necessary steps to subdivide the Real Property to be disposed of, if it is to be subdivided from a "parent" property to remain in the ownership of the Board.

5.0 Disposal Proceeds

5.1 The disposition will be at fair market value, except as set out below. Fair market value means the amount, price, consideration or rent that would be obtained by the District of Education and Child Care in an arm's length transaction in the open market between willing parties acting in good faith.

5.2 Considerations regarding market value and highest and best use could be superceded at the discretion of the district if:

5.2.1 The property could generate ongoing funding for the district through an educational partnership, or the property could generate ongoing funding, savings, or provide shared services to the district through partnership with other public bodies (e.g. lease arrangement with BC Transit).

- 5.2.2 The property has a history of a community relationship and past-usage with a committed organization in the community.
- 5.2.3 The property is the only public facility in the community that is suitable for community use.
- 5.2.4 The planned use of the property would have significant positive effect on a large number of citizens that could not be gained in other ways.
- 5.2.5 The property would be used by another district (including the Conseil Scolaire Francophone) or independent school for educational purposes; or local government or community organization for alternative community use.

6.0 Bylaw Requirement

- 6.1 Upon completion of the process outlined in 3.0 above, (and upon notification of Ministerial approval where applicable), the Board shall adopt a Bylaw (the "Real Property Disposal Bylaw") authorizing the disposal of the Real Property. The Real Property Disposal Bylaw will include:
 - i) Confirmation that the Board will not require the land or improvements for future educational purposes;
 - ii) The name and the facility number, if any; and
 - iii) The address and legal description of the Real Property.

7.0 Notification to Minister of Education

- 7.1 Upon adoption of the Real Property Disposal Bylaw by the Board, the Board will provide without delay the following documentation to the Minister:
 - i) A copy of the Board's Real Property Disposal Bylaw authorizing disposal of the property; and
 - ii) Written notification of the disposition and allocation of the proceeds as required under section 100(2) of the School Act.

8.0 Transfer of Title

- 8.1 Where disposal is by sale or transfer, the transfer of title shall be completed in accordance with the terms of the agreement entered into with the purchaser.

9.0 Notification of Public

9.1 The Board advises the public as to the results of the sale or transfer.

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