

Policy ~~7300~~ 630 – Disposition of Real Property

Revised policy and repeal of Policy 7240 (Site Acquisition) effective upon passage

1st reading April 11, 2019

2nd reading

3rd reading

Statutory authority West Virginia Code 18-5-7

Administrative Guidelines

(none)

The Board of Education believes that the efficient administration of the school system requires the disposition of real property no longer necessary for the educational program or the operation of the County School System.

"Real Property" means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

~~"Personal Property" means tangible property other than real property. It may be tangible, having physical existence, or intangible and may include automotive vehicles, equipment, and materials.~~

~~Except as set forth below, Any time a the Board determines that any building or land is no longer needed for school purposes, the real property must may be sold or leased subject to the provisions of West Virginia Code 18-5-7. at public auction, unless it is sold to: (WV Code 18-5-7 and related case law)~~

- ~~A. the State or political subdivisions, including county commissions or agencies thereof, for an adequate consideration;~~
- ~~B. The United States of America, or any instrumentality, agency or political subdivision thereof, provided that the property is included in any federal flood control project;~~
- ~~C. a private, nonprofit, tax-exempt organization having been granted tax-exempt status by IRS Code 501(c) 3 through (8) inclusive, (19) or (23) for nominal consideration, provided that the property is for charitable, economic development or other community use, and provided further that the title to the property reverts to the Board if the organization dissolves or ceases to use the property for the intended purpose within the first five (5) years of such conveyance.~~

~~In rural communities, if the original sale to the Board was not a voluntary arms-length transaction at fair market value at the time of sale, the grantor of the land, his/her heirs or assigns, shall have the right to purchase the land and the mineral rights at the same price for which it was originally sold.~~

~~In the same method set forth above, the Board may, in lieu of offering the property for sale, enter into a lease for oil or gas or other minerals underlying any lands or school sites owned in fee by it.~~

All property considered for disposition (sale) may be subjected to a current report from an independent, licensed appraiser prior to the solicitation of offers.

~~The Board may make the sale of any property subject to that provision that all liability for hazards associated with the premises are to be assumed by the purchaser. In any sale of improved property in which the consideration is less than~~

~~ten thousand dollars or any sale of unimproved land in which the consideration is less than one thousand dollars, all liability for hazards associated with the premises are to be assumed by the purchaser.~~

~~Where the Board has determined that any school property is no longer needed for school purposes, and that it will serve the best interests of the community, the Board may lease the premises. The property shall be leased to the highest bidder and any authorized lease shall be in writing. The lease shall contain a recitation of all known or reasonably suspected hazards associated with the property and an assumption of the lessee of all risks associated with the hazards, whether disclosed or not, as well as a provision that the lessee assumes liability for all liability for any actions arising from the property during the term of the lease.~~

Site Acquisition

It is the policy of the Board of Education that real property acquisition price be based upon fair market value, taking into account any enhanced value of residual property owned by the seller.

The Boards shall seek school facility sites that comply with ~~WVBE~~ West Virginia Board of Education Policy 6200. The Board shall designate the Superintendent to conduct initial site acquisition negotiations. Negotiations for site acquisition shall be conducted as much as possible within the following guidelines:

- A. Real property shall be appraised before the initiation of negotiations, and the owner or the owner's designated representative shall be given an opportunity to accompany the appraiser during an inspection of the property except that the Board may with the owner's permission, eliminate the appraisal in cases involving acquisition by donation. The agency shall provide the owner with a copy of the Board's approved appraisal prior to initiation of negotiations for acquisition of the property. The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
- B. Before the initiation of negotiations for real property, an amount shall be established which it is reasonably believed is just compensation therefor, and such amount shall, subject to Board approval, be offered for the property. In no event shall such amount be less than the approved appraisal of the fair market value of real property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by school or other facility construction for which such property is acquired or by the likelihood that the property would be acquired for such school or other facility construction, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.
- C. If an interest in real property is to be acquired by exercise of power of eminent domain, formal condemnation proceedings shall be instituted.
- D. The Board shall perform due diligence by requiring a Phase I Environmental Site assessment, a Phase I Archeological survey, and a soils investigation for the purpose of assessing unforeseen site development costs. It is recommended that such due diligence be identified in any real estate sales contract or option to purchase real estate agreement.

Discussion of possible school sites may be carried on in an executive session of the Board, but all official actions must be taken in an open, public meeting. Official Board action is required to execute a valid real estate sales contract, execute a valid option to purchase real estate agreement or to initiate eminent domain proceedings, and a record of that action must be a part of the minutes of the Board.