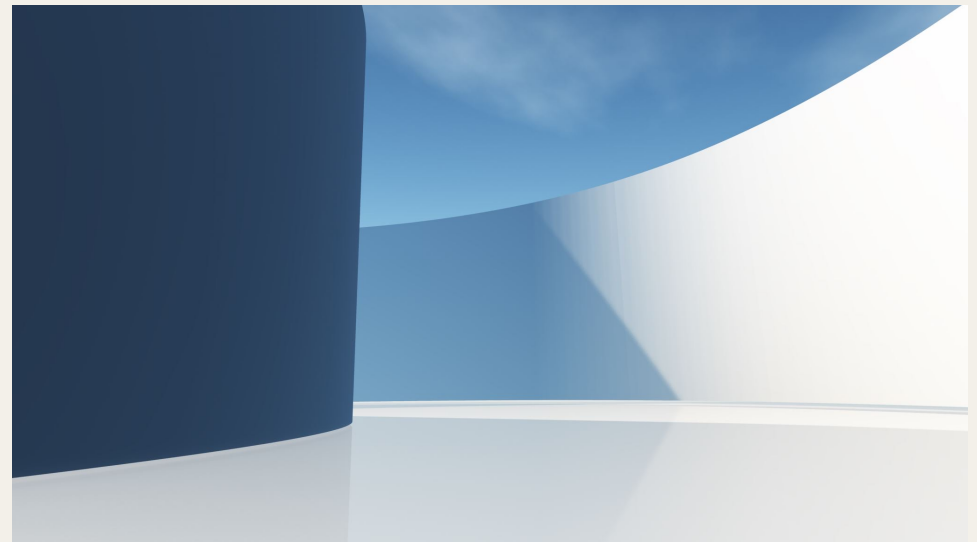


Policy Review of the Salquist Road Property Sale

GBSD Board Meeting

May 7, 2025

Thomas Eubanks, FOKC



Highlight the critical issues of the last year

How the authority to sell property is granted to the GBSD?

What is the role of the School Board as seen by the OSBA?

Timeline review

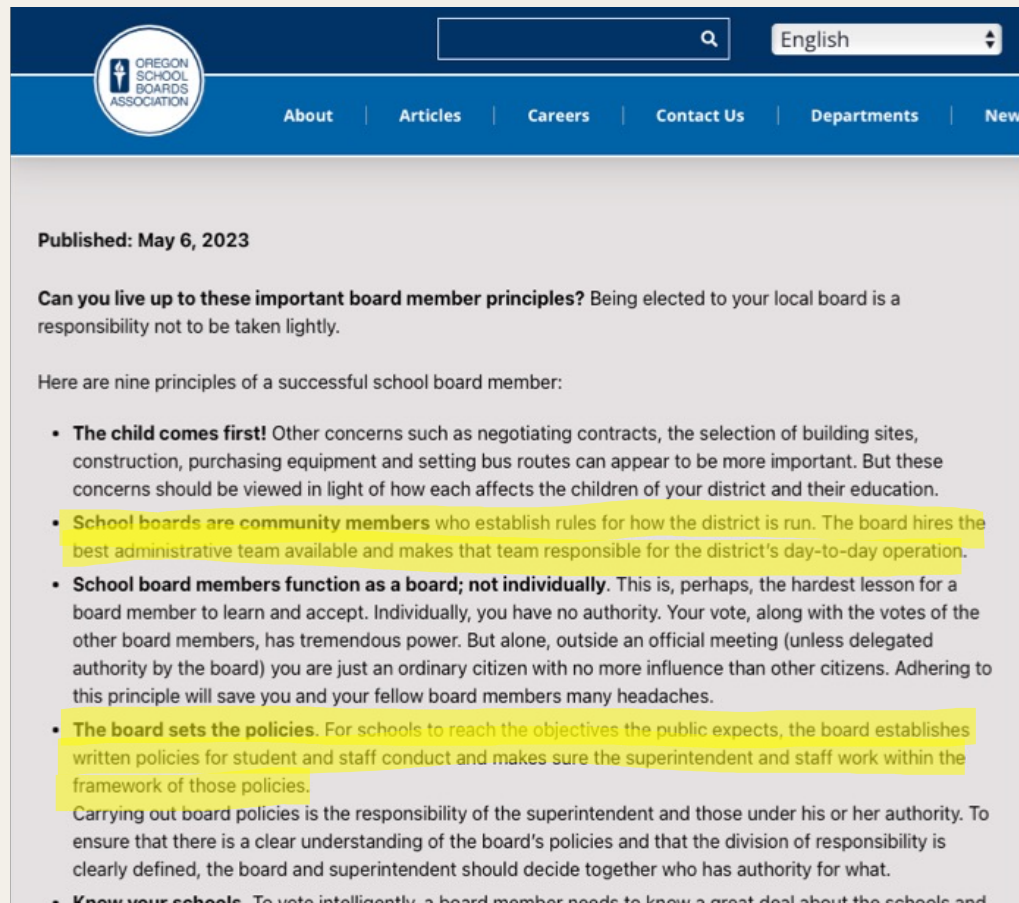
What can be done now

How authority to sell property is granted to GBSD

ORS 332.155: A District School Board “May lease, sell and convey all property of the district as may not, in the judgment of the district school board, be required for school purposes.”

GBSD SD 10, Policy DN: “The superintendent shall report to the Board any equipment or material no longer suitable for school purposes. The Board, after reviewing the facts and determining that the equipment is no longer suitable, shall declare items surplus and shall authorize the superintendent to dispose of said equipment in accordance with state law.”

OSBA defined responsibility of the Board



The screenshot shows the OSBA website with a blue header. The header includes the OSBA logo on the left, a search bar in the center, and a language dropdown menu on the right set to "English". Below the header is a navigation menu with links: "About", "Articles", "Careers", "Contact Us", "Departments", and "News". The main content area has a light gray background. It starts with the text "Published: May 6, 2023". Below this is a bold heading "Can you live up to these important board member principles?" followed by a paragraph: "Being elected to your local board is a responsibility not to be taken lightly." Then, it says "Here are nine principles of a successful school board member:". This is followed by a bulleted list of four principles. The first principle is "The child comes first!". The second principle is "School boards are community members who establish rules for how the district is run. The board hires the best administrative team available and makes that team responsible for the district's day-to-day operation." The third principle is "School board members function as a board; not individually." The fourth principle is "The board sets the policies. For schools to reach the objectives the public expects, the board establishes written policies for student and staff conduct and makes sure the superintendent and staff work within the framework of those policies." Below the list, there is a paragraph: "Carrying out board policies is the responsibility of the superintendent and those under his or her authority. To ensure that there is a clear understanding of the board's policies and that the division of responsibility is clearly defined, the board and superintendent should decide together who has authority for what." The last principle, "Know your schools", is partially visible at the bottom.

Published: May 6, 2023

Can you live up to these important board member principles? Being elected to your local board is a responsibility not to be taken lightly.

Here are nine principles of a successful school board member:

- **The child comes first!** Other concerns such as negotiating contracts, the selection of building sites, construction, purchasing equipment and setting bus routes can appear to be more important. But these concerns should be viewed in light of how each affects the children of your district and their education.
- **School boards are community members** who establish rules for how the district is run. The board hires the best administrative team available and makes that team responsible for the district's day-to-day operation.
- **School board members function as a board; not individually.** This is, perhaps, the hardest lesson for a board member to learn and accept. Individually, you have no authority. Your vote, along with the votes of the other board members, has tremendous power. But alone, outside an official meeting (unless delegated authority by the board) you are just an ordinary citizen with no more influence than other citizens. Adhering to this principle will save you and your fellow board members many headaches.
- **The board sets the policies.** For schools to reach the objectives the public expects, the board establishes written policies for student and staff conduct and makes sure the superintendent and staff work within the framework of those policies.

Carrying out board policies is the responsibility of the superintendent and those under his or her authority. To ensure that there is a clear understanding of the board's policies and that the division of responsibility is clearly defined, the board and superintendent should decide together who has authority for what.

- **Know your schools.** To vote intelligently, a board member needs to know a great deal about the schools and



503.261.4567 | www.gresham.k12.or.us
Certified Administrator of School Finance and
Operations



Jordan Ely, CFO to Sue O'Halloran, Realtor

February 23, 2022

distribution or copying of this email is prohibited. If you have received this email in error, please notify the sender by replying to this message and deleting this email immediately.

----- Forwarded message -----

From: **Jordan Ely** <ely@gresham.k12.or.us>
Date: Tue, Feb 22, 2022 at 4:40 PM
Subject: District Property Assessment
To: Sue O'Halloran <sue@kmorealestate.com>

Good afternoon Sue,

Superintendent Hiu and I have received several communications from people interested in purchasing district properties. While we are not ready to consider selling any properties, we realized that none of our properties have been appraised, which is necessary before even beginning potential conversations with our board.

All of that to ask, do you have capacity to take on another client right now? If you do, can we meet to discuss a potential fee structure for your services? At this time, we are just looking for help finding an appraisal firm to evaluate our unused properties (listed below). Depending on how things go with the West Gresham engagement process, we may begin discussions with the

Jordan Ely, CFO to James Hiu, Super.



James Hiu
Superintendent
Gresham-Barlow School District
503.261.4555 | www.gresham.k12.or.us



On Tue, Feb 7, 2023 at 12:32 PM Jordan Ely <ely@gresham.k12.or.us> wrote:
Sue and KMO recommend listing the Salquist land for \$4.4 million. Would you like me to move forward with **having the board declare surplus and get it listed?**

One option to consider is issuing FF&C bonds to pay for a DO (when the time comes) and holding onto this land until the commercial market swings back up.



Jordan Ely (he/him)
Chief Financial Officer
Gresham-Barlow School District
503.261.4566 | www.gresham.k12.or.us



Board policy meeting minutes March 15, 2023

Discussion: 1. District Surplus Properties (7:46 p.m.)

This item was moved down on the agenda and discussed after the Data Dashboard agenda item. Superintendent Hiu shared that the administration wants to engage in a conversation about district surplus property they are considering because they have some goals and opportunities for the district. They are currently running out of space at the district office, and have staff housed at West Gresham, and staff across the street at the Student Support Services Office (SSSO). They are making some shifts next year where they will be fully utilizing Damascus Middle School. They are looking at other opportunities for where a new district office could be. They have started looking at different facilities and spaces, but this is predicated on the cost of the building, construction, materials, and timeline. He asked Mr. Ely to work with a realtor to see where they might have some districts assets and what it might look like if they were to take these surplus properties to get funding for some of these other projects.

Mr. Ely shared that there are two properties they are discussing. One is adjacent to Kelly Creek Elementary and is referred to as the Chase Road house property. The other is adjacent to city land, and Mr. Ely noted that he specifically asked the city if they sold it to a developer if it would hinder the city's plans. He was told that it would not hinder the city, and they are looking at developing that area in their long range plans. The realtor feels the amount they could reasonably expect for the properties is quite a bit lower than it was even a year ago due to the cool down of the market, however the escalation that has happened over the last few years still make it the most valuable it has been. The property adjacent to Kelly Creek has a house, but it is an island with no access to it. There is an easement up to the house, but it cannot be expanded. It is a little over 2 acres. To maximize value, they would want to sell it to a developer but that is not likely since they can't expand the easement. The only option would be to take part of the Kelly Creek field and cut a road in which he would highly recommend against. The best option would be to sell the property to a person wanting to tear down the house and build a dream home.

Board members asked when the district acquired the properties, how long they have had them, and what the purpose of them was. Mr. Ely shared that generally homes are donated to the district, but he doesn't know about these specifically. The park property he believes the district purchased but is unsure. When they originally acquired the property, it could have been a middle school site. Staff who have been with the district for a long time said there was talk about closing West Orient and building a bigger middle school as new houses were being built, however the Salquist property is not big enough for a middle school. He noted that if they were to build a new district office they would build on the property near Hogan Cedars. The board asked what happened with using West Gresham for the district office, and Mr. Ely shared that topic will be on the agenda as another discussion item on the agenda.

<https://go.boarddocs.com/ot/gresham/Board.nsf/Public>

4/9

8/6/24, 10:20 AM

BoardDocs® Pro

The board asked about the property on Buddale Road that Strebin Farm currently uses. Mr. Ely noted that the property is almost in the Reynolds school district, and they don't think they would use it for a district office. Board members asked if they were to start selling off these properties as they are suggesting if the funds would go into a reserve fund for those sales or if it would just go into the general fund. Mr. Ely stated that if they did want to go that way, he would recommend having the board consider approving it for a direct purpose and putting it in a special fund. The thought would be to use it for a planned purpose such as a district office.

Board members asked if there could be a perceived public outcry if the district sells these properties. Superintendent Hiu answered that he did not know, but was confident that the district would not have foreseeable use for the two properties due to size and location. They wanted to take a look at all of their options as they are starting to get pushed out of where they are currently. They are also spending a lot of money renting space. They have to find a mechanism to pay for what the vision is, and this would give them a start in the right direction.

Mr. Ely shared they are having a feasibility estimate done for West Gresham because of the original high estimate they received. They are having an architect and engineer plan out the building. In conversations they've had numbers estimated between \$8-15 million. If they could liquidate \$5 million in assets, and then liquidate \$5 million in bonds he thinks it could be feasible. If they were to finance all \$10 million then they would be taking money from operations which they don't want to do. At some point they are going to need to go somewhere. The current district office was originally for a high school district which has a much smaller administration staff.

The board asked why these two properties are being considering and not others. Mr. Ely shared that he is going off of the recommendations of the realtor. They had her review all of the vacant properties and these were the ones recommended. He reviewed information around some of the other vacant properties in the district and shared why these would not be options based on size or location. Superintendent Hiu noted that with the bond they said they would be moving out of modulars, but they still have students in modulars. By the end of next year they want to have them all back in buildings.

HEX offers \$4.4 million on December, 2023 and Discussed at the Board meeting in March, 2024

The offer was made on 12/20/2023

The offer was discussed at the Board Meeting on 3/13/2024

The CFO for the District signs the offer on 3/15/2024

C. Information Items

Information 1: GBSD Property Activities: (6:03 p.m.)

Dennis Clague reviewed the information contained in the board agenda packet. Sue O'Halloran and Darren O'Halloran, of Kohler Meyers & O'Halloran Real Estate (KMO), were in attendance to respond to any questions that the board might have regarding the property activity. KMO has worked with the district many times over the past 30 years when dealing with the sale of district properties. Mr. Clague shared background information that when he started with the district, he was told that the GBSD District Office would likely have to move its location in the next two to five years. He contacted KMO and they reviewed district owned properties.

There are two properties that were looked at that currently are not used by the district and have the most potential for being sold at this time. One is on the corner of Salquist and 282nd and one is off of SE Chase Road near Kelly Creek Elementary School. There has been a lot of interest in the Salquist property by developers as it is a desirable location for home development. An offer was received from a local developer, David Gray for the asking price of \$4,500,000. Mr. Gray, has 30 years of experience in development and construction. He is currently working on several projects, has strong financials, is well known and has an excellent reputation in the industry. The district gave a counter offer with some contingencies on putting money down at certain points in time. The SE Chase Road property has difficulties related to access and will likely be listed to be used as a single residence. The asking price for that piece of property would be \$500,000.

<https://go.boarddocs.com/or/gresham/Board.nsf/goto?open&id=D35RWU6FA5C3> 1/4

5/22/24, 3:35 PM BoardDocs® Pro

A potential location for a new GBSD District Office is to purchase the library building that will be replaced by the new library that is currently under construction and due to be completed in 2025.

If both properties are sold, it will provide for funds to purchase the old library for \$3,500,000 and leave enough money for the renovations that would be needed to move the all of the district's departments into one location. In previous investigations, it was determined that it will take approximately 35,000 - 40,000 sq. ft. of space to accomplish this. The current library has 20,000 sq. ft. so renovations would involve adding a second floor to the building. Currently, there are no other spaces in Gresham to accommodate the district's need for space.

Board members raised questions about needing to have a Plan B in case the deals fall through. Ms. O'Halloran reported that a lot of work has been done investigating these possibilities and there shouldn't be anything that would prove to be a hindrance. There were concerns raised over parking since the city currently owns the parking lot that is located at the current library location. Ideas were expressed that the district might need to look at parking in the bigger picture and the city will be moving into a conversation about parking.

The board sees this plan as a win to the community as the district would be able to relocate in the most economical way. There was a discussion about the potential to utilize a construction program from the high schools to potentially build a home on the Chase Road property. John Koch will look into this.

Motion 65: Move to approve the GBSD counter offer #1 for the sale of property R339867 in the amount of \$4.4 million to HEX Investments, LLC.

Motion by Blake Petersen, second by Shawn Farrrens

Final Resolution: Motion Carries

Aye: Blake Petersen, Cathy Keathley, Holly Riegelmann, Kris Howatt, Mayra Gómez, and Shawn Farrrens

Information 2: House Bill 3000 - School Support Fund (6:10 p.m.)

FOKC raises surplus issue August 27, 2024

CFO sites District policy
DN as only source
regulation on real property
sale


CFO confirms no "surplus
vote" was undertaken by
the Board.

Begin forwarded message:

From: Dennis Clague <dclague@gresham.k12.or.us>
Subject: Fwd: Follow up request
Date: August 27, 2024 at 11:29:03 AM PDT
To: Thomas Eubanks <thomaseubanks@mac.com>
Cc: Dennis Clague <dclague@gresham.k12.or.us>

Mr. Eubanks

2. A list of the bidding process for the contracting of this service and Board approval of the applicant if it was obtained.
 - There is no Oregon statutory requirement requiring a bidding process for Real Estate services. The School Board can appoint individuals/organizations for these services.
3. A copy of the agency contract with KMO and Sue O'Halloran to sell the Salquist property.
 - There was no separate agreement to sell the Salquist property. The Broker Service Agreement was in place which eliminated the need for separate agreement for the Salquist property
4. Documents identifying the marketing strategy provided for the Salquist property as recommended by Sue O'Halloran in her January 31, 2023 letter to Jordan Ely.
 - Document link below

 SKM_C750i23013113070 (2) (1).pdf

5. In Sue O'Halloran's email dated March 28, 2024 she stated "Several local builders/developers were aware of the property due to the Pre-application with the city and requested they be made aware if the property became available." Please provide a list of the builders/developers and how they were made aware.

- The following companies we contacted via voice conversation regarding the availability of the Salquist Rd. property:
 - Jim Ray, Rays Construction
 - Hex Investment LLC
 - Joe Venema, Solar Construction
 - Bill Bailey, Re/Max Real Estate
 - Chris Wagner, Mal & Seitz Real estate
 - Chris Anderson, John L. Scott Real Estate

6. The document, date and roll call when the Board declared the Salquist property surplus and authorized the Superintendent to dispose of it in accordance with district policy, "Disposal of District Property DN". Motion 72 addressed the Chase road property but cannot locate the Salquist property vote.

- No document can be found.

7. All emails addressing the Salquist and Chase Road property sent or received by Terry Taylor and Jordan Ely between the dates 1/11/2023 and 1/31/2023.

- No emails found

8. All emails from Jordan Ely involving citizens in the community, Terry Taylor, James Hiu, Sue O'Halloran, or Darren O'Halloran addressing the sale of the Salquist property between the dates June 12, 2023 and June 14, 2023.

Email from CFO September 4, 2024

The CFO speaks to legal counsel, Elliott Field, regarding surplussing the Salquist Property

States he was instructed to have the Board surplus the property, retroactively

Begin forwarded message:

From: Dennis Clague <clague@gresham.k12.or.us>
Subject: Re: Follow up request
Date: September 4, 2024 at 11:10:10 AM PDT
To: Thomas Eubanks

On Sep 4, 2024, at 11:00 AM, Dennis Clague <clague@gresham.k12.or.us> wrote:

Legal counsel advised that the District declare the property surplus retroactively.

When I refer to administration, that does not include myself. Included are the Superintendent, Deputy Superintendent and Chief of Operations. As any negotiations for the use of the property would be between your group and the HEX LLC, administration is not sure what benefit the District's participation would provide.

Thank You,

Dennis Clague, MBA, SFO
Director of Finance
Gresham-Barlow School District
clague@gresham.k12.or.us
503-261-4566

On Wed, Sep 4, 2024 at 10:40 AM Thomas Eubanks <teubanks@gresham.k12.or.us> wrote:

I have been making an attempt to minimize the uncomfortable facts about the sale of these properties. I would think, since I pointed out to you that the property was never declared surplus, that if you were going to the Board to have it done, retroactively, you would have told me. Transparency.

So, do you want to sit down and negotiate a compromise, or do you want to continue as we are? I am not sure who the "administration" is, but I imagine you are part of it. I would like an answer to my proposal in the next 20 minutes.

Tom

On Sep 4, 2024, at 10:25 AM, Dennis Clague <clague@gresham.k12.or.us> wrote:

Please clarify.

Dennis Clague, MBA, SFO
Director of Finance
Gresham-Barlow School District
clague@gresham.k12.or.us
503-261-4566

On Wed, Sep 4, 2024 at 10:22 AM Thomas Eubanks <teubanks@gresham.k12.or.us> wrote:

The agenda for this evening appears to include a motion to declare the Salquist Property surplus. It feels like our interaction may not be authentic.

Board Meeting September 4, 2024

Superintendent transcript (YouTube time stamps)

45:11

March 15 20123 at our regular board work session

um CFO at the time uh Jordan Ely and myself brought forward uh a recommendation to the board to review and um surplus some property that

we assumed that there was a motion by the board unfortunately the board did not uh move to surplus the property at

that time so therefore uh technically the ***board cannot allow the superintendent to sell the property***

unless the property is first uh allowed to be surplussed we actually did this uh

uh unbeknownst to ourselves and through the uh process that uh Mr Eubanks had

mentioned we have come to realize that we are not in a position to actually sell property we actually sold



continued

46:26

Salquist property so at this juncture um after talking to legal counsel we have um been uh shared with us that the ***district will need to actually um surplus the two properties*** and at a later time the district would come to the board and ask if we can sell the property

continued

50:36

property um we don't have any intention at this point because um we're pausing that process um and we're needing to talk to legal counsel and we're needing to try to respond to community concerns about that so ***that is not something that we're going to be moving forward with quickly*** um I think there's some issues that need to be resolved there's some transparency and communication that I want to make sure that our community hears from this school district uh we did not have any um misintent about selling the property

continued

51:24

a financial um sale of one of the pieces of property so I would highly recommend to the board that you actually um approve that uh as surplus the other one um we are planning to put it on pause as like I said we are planning to talk to our um legal counsel about um where we are with that but I want to assure the board that I will slow down until um

there's a plan forward where ***I can communicate directly with you and our community*** so that when I do ask if I would like it to be a surplus that we understand what we're what we're speaking to and what are the benefits

for us moving in that direction moving forward so I apologize that this process

continued

52:09

has been not easy but um we were going on some information that we thought we knew at the at point in time but once we had heard um I asked um Dennis Clague to communicate with our Realtor and say that we're going to pause that and and we've been talking to ***legal counsel who***

says the first thing that you need to do as a district is to actually surplus the properties and so that's why I'm in

front of you this evening asking for that to happen director

Board Member Cathy Keathley

52:40

I remember in the meetings us talking about that we wouldn't need uh it [Salquist Property] that the definition of ***why it would be surplussed*** but I'm not sure that that information was ever conveyed in a real like white paper here's the the basis for that decision particularly to the community so if we're pausing the sale ***I would suggest pausing the surplus*** until we can really get be more transparent about the fact that we don't need it and why make that argument about why we don't need it and and be um communicate that better I guess

Continued, Superintendent

56:02

when we thought we had asked you to Surplus the property back in 2023 at that point in time if you as a board Surplus that property and a later time we did come to you as a board and ask you to sell the property which you gave us permission but ***you really did not have the authority to give us the permission because we hadn't surplused the property*** so um I think it's semantics at this point it's clearly ***we did not follow the process*** but there was no misintent on our part um so trying to be fully transparent to our community um we are asking for the the board to surplus the Chase property at this point and we are ***taking pause on the Salquist property until we can gather more information and we can have some conversations with our community and with you so if I do come back in the future I may still want to ask the Board to consider uh surplus the Salquist***

continued

1:02:32

will will pause at this point in time it is not surplused which means it's back in the district pool of properties that we own and we have now paused with uh selling that property and then we I think have a a little bit of a road to move toward as far as communicating with our community as well as getting legal counsel and then making sure you as a board have uh I have answered the questions that you have ***if at some point in time I am still requesting number one that you Surplus the property for future***

sale or future consideration um and when that may may be but I don't think that

that's the right time at this point um and it looks like we have some work to do with our community as well as with legal counsel uh specifically around the salquist property

Cancellation letter October 10, 2024



333 N. MAIN AVENUE, SUITE 109 ▲ GRESHAM, OR 97030 ▲ TEL 503.661.8000

October 10, 2024

John L. Scott Real Estate
Attention: Chris Anderson
17150 University Avenue, Suite 200
Sandy OR 97055
Sent via electronic mail

Re : Gresham-Barlow School District – Hex Investments LLC
R339867 12.67 Acres Salquist Road


Dear Chris:

As discussed earlier today, attached is a Termination Agreement for the above property. As we have been informed by the District, and specifically Dennis Clague, Director of Finance, the District Board had not declared this property to be "Surplus" at an earlier meeting in discussing this property. This action is required in the sale of school district assets. The discovery of this failure was the result of a citizen request for information and the resultant research of District Board actions.

Following this discovery, the District Board did not declare the property "surplus" at its September 4, 2024, meeting. We are informed that the Board is now in the process of hiring a new superintendent and that will be its focus for the next few meetings. We are also informed that the Board Policy Committee is reviewing the policy for property disposal and will be making changes.

We have been directed to terminate the transaction as the Gresham-Barlow School District is not currently authorized to legally sell the subject property. The earnest money is released to Hex Investment LLC in the Termination Agreement. In the event of a request for recovery of costs involved in the early stages of this transaction, it can be directed to Dennis Clague, Director of Finance, Gresham-Barlow School District, 1331 NW Eastman Parkway, Gresham OR 97030.

We regret the circumstances involved with this transaction. In the event the property should become available at some future date, you will be promptly notified.

Sincerely,
Kohler Meyers O'Halloran, Inc.

Sue O'Halloran, Principal Broker

AN INNOVATIVE REALTY TEAM

COMMERCIAL SALES & LEASING ▲ RESIDENTIAL SALES ▲ PROPERTY MANAGEMENT ▲ PROJECT DEVELOPMENT

HEX demand from Schwabe, October 18, 2024

Schwabe

David A. Anderson
Admitted in Oregon
D: 503-796-2456
C: 503-313-7801
danderson@schwabe.com

October 18, 2024

VIA CERTIFIED MAIL, RETURN RECEIPT
REQUESTED, AND FIRST CLASS MAIL.

Gresham Barlow School District
1331 NW Eastman Parkway
Gresham, OR 97030

\$12,000,000
----- = \$84,000
143

RE: HEX Investments LLC
Our File No.: 115390-287099

Dear Gresham Barlow School District:

Our office represents HEX Investments LLC ("HEX"). We write in regards to the Real Estate Sale Agreement (the "Agreement") entered into between HEX and Gresham Barlow School District (the "District") for the real property owned by the District and referred to as R339867; 1S3E13DB00100, Gresham, OR 97080 (the "Property").

The parties entered into the Agreement on or about March 15, 2024. The Agreement is enclosed and marked as Exhibit 1. According to the Agreement, the District agreed to sell HEX the Property in exchange for \$4,400,000. The transaction was set to close on or before September 12, 2025.

Since entering into the Agreement with the District, HEX has taken significant steps in preparation for timely closing the transaction. These steps include survey, engineering, planning and various professional investigations and reports and have cost HEX more than \$100,000.

As you know, HEX intended to develop the Property for residential use, including obtaining entitlements, development work, and building homes. **HEX is an experienced developer and has completed numerous similar developments. HEX anticipates approximately \$12,000,000 in profit from its development of the Property.**

On October 10, 2024, HEX received a letter from the District's real estate agent, Sue O'Halloran, that attempts to unilaterally terminate the Agreement. The letter is enclosed and

1211 SW 5th Avenue, Suite 1900 | Portland, OR 97204 | M 503-222-9961 | F 503-796-2900 | schwabe.com

141316-280986-00667955 v.1

Elliott Field, JD legal counsel for GBSD capitulation letter October 29, 2024

From: Elliot R. Field <efield@ghrlawyers.com>
Sent: Tuesday, October 29, 2024 8:31 AM
To: Anderson, Dave <DAnderson@SCHWABE.com>
Subject: RE: Gresham-Barlow SD/HEX Investments

Dave,

Thank you for speaking with me yesterday. As we discussed on the phone, **the District withdraws the termination** correspondence that was sent on 10/10/24. Please let me know if this writing is sufficient.

With thanks,
Elliot

1

Elliot R. Field
Garrett Hemann Robertson P.C.
P.O. Box 749 • Salem, Oregon 97308-0749 • (503) 581-1501 • www.ghrlawyers.com

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From: Elliot R. Field
Sent: Monday, October 28, 2024 11:05 AM
To: danderson@schwabe.com
Subject: Gresham-Barlow SD/HEX Investments

Dave,

I just left you a message regarding the matter above. Please give me a call at your earliest convenience. My direct dial is [REDACTED]

Thanks,
Elliot

Elliot R. Field
Garrett Hemann Robertson P.C.
P.O. Box 749 • Salem, Oregon 97308-0749 • (503) 581-1501 • www.ghrlawyers.com

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*November 6, 2024
attempt to surplus
Salquist, written
by Elliott Field*

**GRESHAM-BARLOW SCHOOL DISTRICT NO. 10
SURPLUS PROPERTY RESOLUTION 2025-09**

RECITALS

WHEREAS, the Gresham-Barlow School District No. 10, ("the District"), seeks to declare certain real property that it owns as surplus for purposes of sale as authorized by the District Board of Education;

WHEREAS, the District **has determined that the property described below no longer serves the purpose or program for which they were originally intended;**

WHEREAS, in August 2021, the District identified for the Board certain real property as underutilized, including the property described below;

WHEREAS, in March 2023, it was stated in a Board meeting that the property described below was likely to never have an educational use;

WHEREAS, in March 2024, it was reported in a Board meeting that the property described below is not currently used by the District; and

WHEREAS, ORS 332.155(5) allows a district school board to sell and convey all property of the district as may not, in the judgment of the district school board, be required for school purposes.

BE IT THEREFORE RESOLVED that the **District Board of Education does hereby by vote declare the following property is not required for school purposes and, therefore, surplus and subject to sale:**

Salquist Road, R339867, Tax Lot 100 1S3E13DB

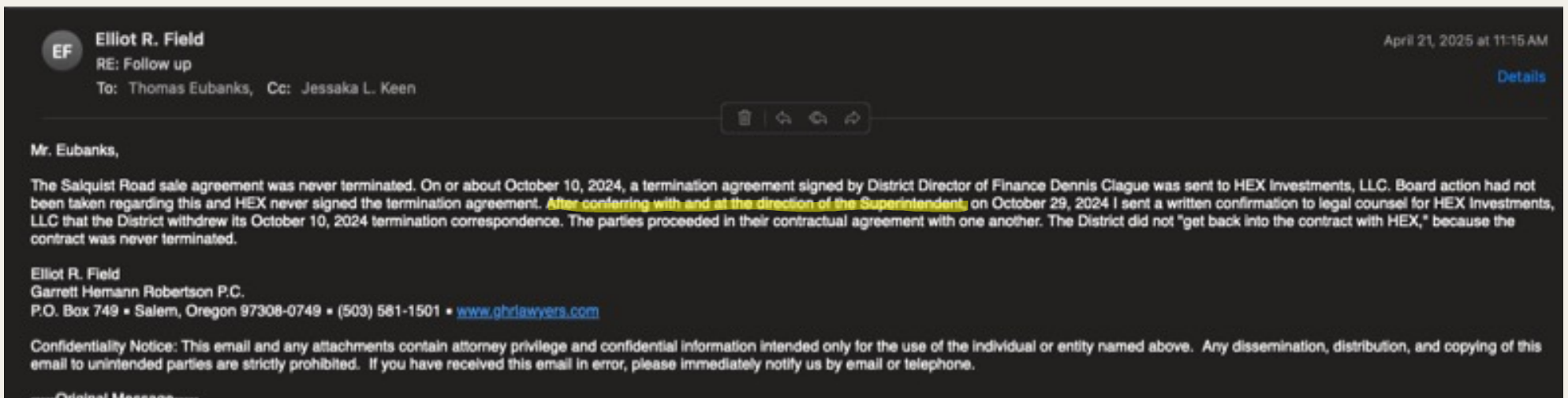
Approved by the Gresham-Barlow School District Board of Education this ____th day of November 2024.

Chair of the Board of Education, Date

Witnessed by:

Board Secretary

Who authorized the Field email?



John L. Scott, Sandy lawsuit threat January 15, 2025

Pursuant to the agreement, you were obligated to sell the property to HEX for \$4,400,000.00 with a closing date on June 16, 2025. The district agreed to pay my client a commission of \$99,000 for its efforts as the HEX's broker in the transaction. During the transaction it became apparent the district did not take the required steps to move this property into its surplus land properties, which you claim was a precondition to being able to sell the property. The district did not disclose this in the agreement. **Upon recognizing your error, pointed out by a disgruntled neighbor,** you did not rectify this error and make the property saleable. Instead, you sought to terminate the sale. It is our understanding HEX objects to your attempted unilateral cancelation of the agreement; our client does too.

Shuler Group is a named third-party beneficiary of the agreement in that the district was supposed to pay it a commission resulting from your obligation to close the sale. My client performed services and expended time in anticipation of the closing. Because you failed to close the sale, you breached the contract, and my client is entitled to enforce your promise to pay its commission either directly or as a third-party beneficiary. Where parties enter into a contract and intend to benefit a third party, the third party may assert a claim on the promise made for his or her benefit. *Drury v. Assisted Living Concepts, Inc.*, 245 Or App 217, 221 (2011). That commission was to become due and owing no later than June 16, 2025 and it accrues interest at a rate of 9% pursuant to ORS 82.010(1).

In addition, my client has incurred consequential damages from lost commissions on the 143 homes that will no longer be built on the property for which it also demands compensation. These commissions were reasonably foreseeable and are therefore recoverable as consequential damages. *Siegner v. Interstate Prod. Credit Ass'n of Spokane*, 109 Or App 417, 436 (1991) (consequential damages are available on a breach of contract claim if "the defendant knew of facts making the loss foreseeable at the time the contract was made."). The lost commissions constitute "gains prevented" and are "the proximate and natural consequence" of the failure to close the sale. *Blagen v. Thompson*, 23 Or 239, 248 (1892) (plaintiff was entitled to loss of profits that would have accrued out of a contract to build a street railway within a residential subdivision where defendant knew the failure to construct the railway

Gresham-Barlow School District
January 15, 2025
Page 2 of 2

$$\begin{array}{r} \$2,931,500 / 143 \\ \hline .05 \end{array} = \$410,000$$

would prevent the enhanced value of the land). **My client estimates the lost commissions from the 143 homes is \$2,931,500.00.**

Please pay my client's damages no later than February 1, 2025. If you fail to pay these damages, my client intends to file legal action against you to recover its damages.

SINCERELY,


commission= \$20,500

BRIAN D. CHENOWETH
MANAGING ATTORNEY
CHENOWETH LAW GROUP

*Is this what the
Superintendent
meant by
“conversation
with the
community”*



John Koch, Interim Superintendent

Gresham-Barlow School District No. 10Jt

1331 NW Eastman Parkway, Gresham, OR 97030-3825
www.gresham.k12.or.us

Phone: (503) 261-4555
Fax: (503) 261-4554

February 7, 2025

Dear Gresham Barlow Community Members,

On behalf of the Board of Directors, we are writing to inform you that the sale of the Salquist Road property is under contract with HEX Development, LLC, and is moving forward to close in 2025. As part of this process, there will be opportunities for public participation in the anticipated land use proceedings for a change of use in the coming months.

We encourage all interested constituents to stay informed and take part in the process. The forthcoming land use applications will be subject to review by the appropriate local authorities at the City of Gresham, and public input will be an important part of these deliberations. For more information, visit the [City of Gresham Urban Design and Planning](#) website.

As more details become available regarding hearing dates and opportunities for public comment, these will be shared on the City of Gresham Urban Design and Planning website. In the meantime, if you have any questions or want to learn more, please contact Sarah Avery at 503-261-4555 or avery4@gresham.k12.or.us.

We understand that some of you are disappointed by this decision, but we sincerely appreciate you sharing your thoughts and concerns. Thank you for your continued engagement in our district's efforts to responsibly manage its resources.

Sincerely,

GRESHAM-BARLOW SCHOOL DISTRICT

John R. Koch
Interim Superintendent

Kris Howatt
Board Chair

JRK:sa

Why the lawsuit is unlikely to prevail

The contract with HEX is void because it contravenes law, public policy and societal standards.

ORS 332.155-the Board did not pass judgement on whether the property would be required for educational needs and had the understanding the sale was not proceeding based on the September meeting.

GBSD DN policy- the Board did not surplus the property, which up until the lawsuit threat was recognized by the District, their lawyer, the realtor and the Board as a deal killer.

Title 25, section 270- state law referenced in DN was not followed for sale of public land.

The Board

- Must vote to NOT surplus the property and prevent the sale.
- Must commission an independent, current evaluation of the educational need for the property
- Ensure the requirements for public land sale are followed including
 - an appraisal
 - public notice
 - competitive bidding
 - adherence to Oregon State Laws for public land sale