

Hodges, Loizzi, Eisenhammer, Rodick & Kohn

Debra H. Kaplan

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July 30, 2008

Via Electronic & First Class Mail

Ms. Therese O'Neill
Assistant Superintendent of Finance & Operations
Oak Park Elementary School District 97
970 W. Madison
Oak Park, Illinois 60302

Re: Overview of Sale of Property by a Public School District

Dear Therese:

Pursuant to your recent request of Bob Kohn, this letter describes generally the process for selling a parcel of real property owned by the School District.

The Board may sell real property to which it holds title in accordance with the requirements of the *School Code*. Please note that due to the recent abolishment of as well as the District's withdrawal from the Trustees of Schools of the Cicero Township ("Trustees"), the District now holds legal title to all the real property formerly held by the Trustees pursuant to their powers under the *School Code*. When the Trustees dissolved as an entity, title to all of the District property automatically passed to the Board of Education by operation of law as of January 1, 2008. See 105 ILCS 5/5-1. Additionally, earlier this year, the Trustees also executed quit claim deeds for all parcels belonging to the District, to ensure that the deeds to the properties will reflect the name of the Board as the title holder.

Pursuant to Section 5/5-22 of the *School Code*, a school may sell real estate of the district when, in the opinion of the Board, the property becomes unnecessary or unsuitable or inconvenient for a school, or unnecessary for the uses of the district. See 105 ILCS 5/10-22.13. Upon such a finding, two-thirds of the board members must then pass a resolution directing the sale of the property. The resolution includes all the terms and conditions of the sale, which we include in the real estate sales contract. The resolution also includes the public notice of sale, the form of which is proscribed under section 5/5-22. Kindly note that we can prepare all of these necessary documents for the District when needed.

After the resolution for the sale of the property has been adopted by two-thirds of the board members, the Board must, within sixty (60) days after the adoption of the resolution, sell the property at auction, or by sealed bids. Prior to the sale of the property, the District must publish the notice of sale. The notice must contain the time, place, and terms of the sale, and must be published once a week for three (3) successive weeks prior to the auction, if the sale is by auction, or prior to the date of acceptance of bids, if the sale is by sealed bids. The Board must publish the notice in a newspaper published in the District or, if there is no paper published in the District, then in a newspaper published in the county having a general circulation in the District.

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It should be noted that the Board may set a minimum price to sell the property. If the Board chooses to set such a price and it is not met, or if no bids are received, the Board may adopt a resolution directing that the services of a real estate broker be engaged to assist in selling the property. The broker's commission, however, may not exceed seven percent (7%) of the sale price and must be contingent on the sale of the property within one hundred twenty (120) days from the date it is listed by the broker. The broker must sell the property for not less than the minimum price.

Finally, in the event the Board wishes to lower the minimum-selling price on the property, the public sale procedures set forth above must again be followed. An *increase* in the minimum-selling price may be done, however, without repeating the public sale procedures.

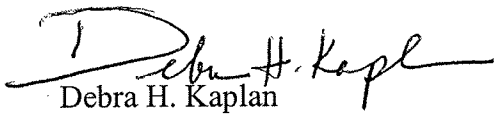
Once a sale has been made and the parties are ready to close, the deed of conveyance to the buyer must be executed by the Board President and Board Secretary. Once the property is sold and the District receives proceeds from the sale, the *School Code* also proscribes the manner in which such proceeds may be used. Section 5/5-22 provides, in pertinent part:

The school board shall use the proceeds from the sale to first pay the principal and interest on any outstanding bonds on the property being sold and after all such bonds have been retired, the remaining proceeds from the sale next shall be used by the school board to meet any urgent district needs as determined under [fire/life/safety code] and then for any other authorized purpose and for deposit into any district fund.

Should you have any further questions or concerns regarding this matter, please do not hesitate to contact us.

Sincerely,

HODGES, LOIZZI, EISENHAMMER,
RODICK & KOHN


Debra H. Kaplan

DHK/jk

cc: Robert Kohn

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