

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Jessamine County School District Request for Waiver of 702 KAR 4:090 Property Disposal Section 1(3) Disposition of Real Property and 702 KAR 4:090 Property Disposal Section 2(1) Disposition by Easement

Date: April 2024

Action Requested: Review Action/Consent Action/Discussion

Held In: Full Board State Schools United We Learn

SUMMARY OF ISSUE BEFORE THE BOARD:

Pursuant to KRS 156.160(2), the Jessamine County Board of Education requests:

1. Approval from Kentucky Board of Education to waive **702 KAR 4:090 Property Disposal Section 1(3) Disposition of Real Property** which requires the district to receive fair market value for the disposal of surplus property by “setting an acceptable price, the minimum acceptable price shall be determined by an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the disposal of the property.”
2. Approval from Kentucky Board of Education to waive **702 KAR 4:090 Property Disposal Section 2(1) Disposition by Easement** which requires the district to attain “an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the easement.”

COMMISSIONER’S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the district’s waiver requests to forego the requirement to dispose of property at a price determined by an appraisal from a certified general real property appraiser commissioned by the district.

APPLICABLE STATUTE OR REGULATION:

KRS 156.160 Promulgation of administrative regulation by Kentucky Board of Education – Voluntary compliance – Penalty. KRS 156.160(2) states:

(a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;

3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

702 KAR 4:090 Property disposal

“Section 1(3). Disposition of Real Property. For property disposal by setting a minimum acceptable price, the minimum acceptable price shall be the fair market value, which shall be determined by an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the disposal of the property.”

“Section 2(1). Disposition by Easement. Prior to the execution of a proposed easement upon school property, the agreement shall be reviewed by the local district's board attorney. The reviewed agreement and an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the easement shall be submitted to the local board of education for its consideration. Upon approval, the local school district's written board order shall be forwarded to the department for review and approval. The local board of education shall include assurance that disposal will not affect the integrity or usefulness of property crucial to the educational needs of the district.”

BACKGROUND:

Existing Policy:

702 KAR 4:090 Section 1(3) and Section 2(1) require documentation regarding receipt of fair market value as determined by an appraisal from a certified general real property appraisal commissioned by the school district and obtained in connection with the disposal of the property or equivalent valuable consideration.

Summary of Issue:

The district requests a waiver of the regulation which requires an appraisal to be commissioned by the district for the sale and granting of a permanent easement of district properties to the Kentucky Transportation Cabinet (KYTC) for a shared use trail along Wilmore Road (KY 29) which fronts three of the district's schools. Appraisals for KYTC were performed by William L. Berkley, Certified General Real Estate Appraiser (KY License #721). The West Jessamine High School property (Parcel 1 Tract A (sale- 1.313 acres) had an appraised value of \$85,300. The West Jessamine Middle School and Rosenwald Dunbar Elementary School properties (Parcel 9 Tract A (sale - 0.812 acres) and Parcel 9 Tract B (permanent easement - 0.339 acres) had an appraised value of \$56,200. Approving the requests will allow the district to avoid expenditure of its funds for appraisals by accepting the appraisals provided by KYTC in lieu of district commissioned appraisals. This allows the district to maximize the net amount associated with relatively small transactions.

Budget Impact:

There is no impact on KDE's budget.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

Kentucky Transportation Cabinet, Department of Highways, Division of Right of Way and Utilities for the proposed Memorandum of Understanding.

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Commitment Student-Centered Accountability System Early Childhood District Support