

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Henderson County School District Request for Waiver of 702 KAR 4:090 Property Disposal Section 1(3) Disposition of Real Property

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 Henderson 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.”

COMMISSIONER’S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the district’s request to waive the requirement to dispose of property at a price determined by an appraisal performed by a certified general real property appraiser commissioned by the district and accept a valuation provided by the Kentucky Transportation Cabinet (KYTC).

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.”

BACKGROUND:

Existing Policy:

702 KAR 4:090 Section 1(3) requires 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:

In 2021, the district conveyed two (2) parcels of land to the Commonwealth of Kentucky as part of the I-69 highway project. During construction, KYTC identified the need to acquire an additional 3,327 s.f. tract - 0.08 acres designated as Parcel 200A, adjacent to the property previously conveyed as Parcel 200. In recognition of this circumstance, the Henderson County Board of Education requests a waiver to 702 KAR 4:090 Section 1(3) which requires the district to perform an appraisal and accept KYTC's valuation to expedite the sale of the property and avoid delaying the construction of I-69 at that location. Approving the request will allow the district to avoid expend its funds for an appraisal, allow the district to maximize the net amount associated with this relatively small transaction (\$5,560), expedite the sale of the property, and avoid delaying the construction of I-69 at that location.

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 and Dunrobin Associates, LLC.

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Commitment Student-Centered Accountability System Early Childhood District Support