

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Jefferson County School District Request for Waiver of 702 KAR 4:180

Date: August 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 Jefferson County Board of Education requests waiver of Section 4(4)(b) of 702 KAR 4:050 Building sites; inspection, approval which states relating to the prohibition on easements traversing a school site.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the request for waiver of 702 KAR 4:050 regarding the prohibition of an easement traversing a site and consideration of relocation to the perimeter of the site for the proposed acquisition of property for tennis courts and athletic practice fields.

APPLICABLE STATUTE OR REGULATION:

KRS 156.160(2) and 702 KAR 4:050

BACKGROUND:

Existing Policy:

702 KAR 4:040 Section 4(4)(b) prohibits easements from traversing a proposed building site and provides consideration if the easement can be moved to the perimeter of the site. In general, easements limit the ability of the property owner to fully develop property. Easements traversing a property can significantly impact site development.

Summary of Issue:

KRS 156.160(2) permits the KBE to waive certain regulations at the request of a local board of education when the district demonstrates that there is an alternate approach or if the regulation will cause a hardship. Regulations related to health and safety, civil rights or federal law cannot be waived.

The Jefferson County Board of Education requests a waiver 702 KAR 4:050 to acquire an approximate 20-acre property located in West Louisville to construct a new middle school. Multiple parcels were consolidated by the current owner. The consolidation also involved street closures. A fifty (50') foot wide public utility, sewer, and drainage traverses the property. The easement is a portion of a larger Metropolitan Sewer District storm drainage easement which connects areas to the east and west of the site and will serve the proposed school. Relocating the drainage easement is not practical. Based on conversations with utility providers, other existing

easements can be released. The district will be able to develop the site for its intended purpose with the easement in place.

Budget Impact:

There is no impact on KDE's budget.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

1. Sabak, Wilson & Lingo, Inc., Engineers, Landscape Architects & Planners
Derrick Holland, PLS No. 4043, provided the ALTA/NSPS Land Title Survey which fulfilled the requirements of Section 4(4) plat to identify the property boundaries, acreage, road access, easements and 100-year flood plain.
2. Metropolitan Sewer District indicated that relocating the storm sewer easement was not a viable option.
3. Louisville Water Company agreed to release existing easements.

CONTACT PERSON(S):

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Commissioner of Education

Category: <input type="checkbox"/> Educator Workforce Diversity <input type="checkbox"/> Portrait of a Graduate Partnerships <input type="checkbox"/> Racial Equity Commitment <input type="checkbox"/> Student-Centered Accountability System <input type="checkbox"/> Early Childhood <input checked="" type="checkbox"/> District Support
