

PROVINCE OF BRITISH COLUMBIA

M 233

ORDER OF THE MINISTER OF EDUCATION

I, Shirley Bond, Minister of Education, hereby repeal the Disposal of Land or Improvements Order, Ministerial Order 16/03, and make a new Order as set out in the attached Schedule.

Sept. 14, 2007
Date

Shirley Bond
Minister of Education

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: School Act, sections 96(3) and 168(2)(t)

Other (specify): _____

SCHEDULE

DISPOSAL OF LAND OR IMPROVEMENTS ORDER

Authority: *School Act*, sections 96(3) and 168(2)(t)

Interpretation

1. In this Order:

“alternate government use” means a use determined to meet the requirements of the Provincial government or of a Crown agency;

“board” includes a francophone education authority;

“fair market value” means the amount, price, consideration or rent that would be obtained by a board in an arms length transaction in the open market between willing parties acting in good faith;

“surplus property” means real property not required by a board for educational purposes;

2. For the purposes of this Order, “dispose of surplus property” means a board decision to dispose of surplus property by sale and transfer in fee simple or by a lease of 5 years or more including the cumulative total of all options and rights to extend or renew the lease.

Application

3. This Order does not apply to grants of Crown land described in section 99 of the *School Act*.

Disposal of Surplus Property

4. Boards must not dispose of surplus property other than in accordance with the process set out in this Order.

Policies and Procedures

5. Boards must develop and implement policies and procedures with respect to the disposal of land or improvements under section 96(3) of the *School Act*, consistent with the process established by this Order, and make these policies and procedures publicly available.

6. The policies and procedures referred to in section 5 must provide for:

- (a) consideration of the future educational needs of the school district,
- (b) disposition of land or improvements through a public process, and
- (c) disposition of land or improvements at fair market value.

Bylaws

7. A board's bylaw made pursuant to section 65(5) of the *School Act* authorizing disposal of property, including surplus property, owned or administered by the board must include:

- (a) confirmation that the board will not require the property for future educational purposes,
- (b) the name and facility number of the property, and
- (c) the address and legal description of the property.

Inventory of Surplus Property

8. A board must provide an inventory of surplus property ("inventory") to the Ministries of Education and Labour and Citizens' Services, in the form established by the Ministry of Labour and Citizens' Services, by October 5, 2007, listing all board surplus property.

9. The inventory must state whether the board has decided to retain or dispose of surplus property as listed. For those properties identified as available for disposition, the inventory must set out the board's assessment of its contribution and of the Minister's contribution to the capital expenditure as contemplated by section 100(2) of the *School Act*.
10. A board must provide the Ministries of Education and Labour and Citizens' Services with an updated inventory by April 30 of each school year.
11. A board must promptly notify the Ministries of Education and Labour and Citizens' Services if:
- (a) there is a change in the retention or disposition status of a surplus property as listed on its inventory; or
 - (b) there is a surplus property added to or deleted from its inventory provided pursuant to section 8 or as last updated pursuant to section 10.

Opportunity Matching

12. For an inventory received pursuant to section 8, the Ministries of Education and Labour and Citizens' Services will determine and notify a board by November 30, 2007 whether a surplus property identified for disposition by the board is required for an alternate government use.
13. For a revised or updated inventory received pursuant to section 10 or 11, the Ministries of Education and Labour and Citizens' Services will determine and notify a board, within 60 days of receipt, whether a surplus property identified for disposition by the board is required for an alternate government use.
14. A notice of alternate government use must set out a description of the alternate government use and the name of the potential purchaser associated with the alternate government use identified by the Ministry of Labour and Citizens' Services.

15. Once notified of a potential purchaser, the board must proceed to negotiate in good faith with the potential purchaser the terms of a comprehensive purchase agreement for the sale of the surplus property.

16. Where boards are negotiating a comprehensive purchase agreement with a potential purchaser as described in the notice of alternate government use provided pursuant to section 14, the board must report on the progress of negotiations to the Ministries of Education and Labour and Citizens' Services on a monthly basis in the form established by the Ministry of Labour Citizens' Services.

17. If a comprehensive purchase agreement is not entered into within 120 days of the date that a board is notified under section 13 of this Order of an alternate government use, the board may elect to end such negotiations and notify the Ministries of Education and Labour and Citizens' Services. Within 10 days of receiving such notice from a board, the Ministries of Education and Labour and Citizens' Services will determine whether there is a different alternate government use for the surplus property and notify the board accordingly. If a different alternate government use is not identified within 10 days then the board must proceed with the consultation with the local government in whose jurisdiction the surplus property is located as described in section 19.

18. If the board is notified of a different alternate government use, the process outlined in sections 14, 15, 16, and 21 of this Order will apply. If a comprehensive purchase agreement is not entered into within 120 days of the date that a board is notified of a different alternate government use the board must proceed with the consultation with the local government in whose jurisdiction the surplus property is located as described in section 19.

Local government consultation

19. If,
- (a) a board is notified that a surplus property identified for disposition by the board is not required for an alternate government use, or
 - (b) a board is not notified within the time limits set out in sections 12 and 13 that a surplus property identified for disposition by the board is required for an alternate government use, or
 - (c) a comprehensive purchase agreement is not entered into as a result of the process set out above, or
 - (d) a disposition does not result from the process set out above

then the board must proceed to consult with the local government in whose jurisdiction the surplus property is located as to whether there is a local government use for the property.

Disposition of surplus property through public process

20. If a potential use pursuant to section 19 is not identified or is identified but does not result in a disposition, then the board may proceed to dispose of the property through a public process as established by the policies and procedures referred to in section 5.

Fair market value

21. The consideration for the purchase and sale of surplus property to any purchaser must be the fair market value of the surplus property.

Allocation of Proceeds

22. If a board has disposed of property, including surplus property, the board must, without delay, provide the Minister with:

- (a) a copy of the bylaw referred to in section 7, and
- (b) written notification of the disposition and allocation of the proceeds as required under section 100(2) of the *School Act*.