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**Consultation on
Disposition of Surplus School Property**
Fall 2015 (vRR2)

Introduction

The Ministry of Education is reviewing Ontario Regulation 444/98 – *Disposition of Surplus Real Property* (O. Reg. 444/98), which prescribes how school boards should sell or lease properties that they no longer require.

The purpose of this consultation is to:

1. Provide context for the review of O. Reg. 444/98 on the disposition of surplus school property;
2. Identify and seek comment on some key issues the Ministry of Education is aware of, including possible amendments;
3. Confirm what other issues consultation participants feel should be reviewed and/or amended in O. Reg. 444/98.

Current Disposition Process I

- O. Reg. 444/98 ensures that surplus school property is first offered to a prioritised list of school boards and public entities for purchase or lease before the property can be disposed of on the open market.
- All listed entities have 90 days to submit an offer.
- Coterminous school boards are given first preference, after which other public entities are prioritised as follows: colleges; universities; the Government of Ontario; municipalities; local service boards; and the Government of Canada.

Current Disposition Process II

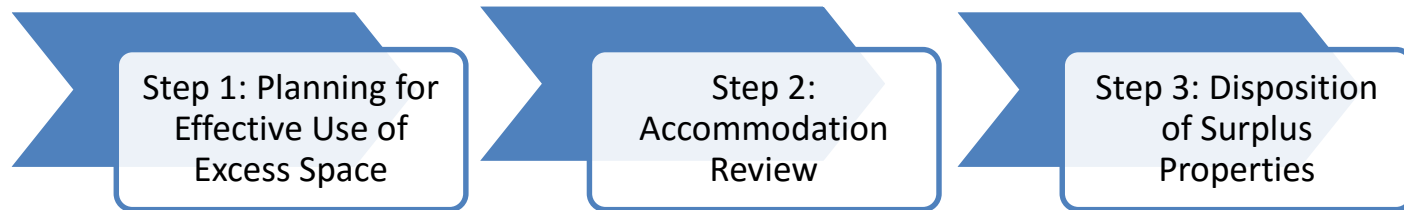
- Coterminous school boards can offer to purchase or lease the property at fair market value (FMV) or the replacement value of the school based on its size, whichever is less.
- Other public entities can offer to purchase or lease the property at FMV only.
- If no offer is received during the 90 day period or if no offer can be agreed upon, the selling school board may dispose of the property on the open market after first providing evidence to the Minister of Education that due process has been followed.

Current Disposition Process III

- If an offer is received, parties have 30 days to negotiate on price. If there are competing offers, the selling board must first negotiate with the top priority entity prior to negotiating with the next top priority entity.
- If agreement on price is reached, parties proceed to negotiate other sale conditions.
- If no agreement on price is reached, the purchasing party can request arbitration. This request must be within the 30-day negotiation period.
- If the purchasing party does not request arbitration and both parties still disagree, the selling board can either:
 - Extend the negotiation period; or
 - Consider the next priority offer (if applicable); or
 - Seek acknowledgment from the ministry to proceed to the open market.

Policy Context – Education

- Greater coordination and sharing of planning related information is expected between school boards and municipal/community partners to maximize use of excess or surplus space
- Planning spectrum of excess to surplus space has 3 distinct steps, with distinct municipal/community role at each step:



- **Step 1:** As per the [Community Planning and Partnership Guideline](#) (see Appendix), municipalities and community organizations will be:
 - Made aware of facility partnership opportunities with the school board
 - Notified annually of potential municipal-sector impacts of capital-related board plans
- **Step 2:** School boards are required under the Pupil Accommodation Review Guideline to provide municipalities with a formal opportunity to provide feedback on the board's school closure/consolidation proposal. Community organizations, that have previously expressed an interest in the schools under review, also have an opportunity to provide feedback.
- **Step 3:** Municipalities are listed in O. Reg. 444/98 as a preferred entity allowing them to receive advance notice of surplus school properties for sale or lease, prior to the property being listed in the open market.

Policy Context – Community Hubs

- The Ministry of Education is fully supportive of the recently released [*Community Hubs in Ontario: A Strategic Framework and Action Plan*](#), which provides recommendations to bring services together and use spaces to better serve Ontarians.
- The Action Plan makes three recommendations which have implications for O. Reg. 444/98:
 - Extend the 90-day circulation period of surplus school board property to 180 days;
 - Build a broader and more complete realty circulation list; and
 - Introduce a limited exemption to the requirement that properties be sold at FMV, provided that school boards would be made “whole”.
- The Ministry of Education is now consulting upon reforms related to the first two recommendations, as well as other proposed reforms to O. Reg. 444/98 that the ministry has identified.

FMV Sales of Surplus Schools

- As set out in Community Hubs in Ontario: A Strategic Framework and Action Plan, there is internal work taking place across government to develop a process for responding to requests for exemptions to FMV.
- At this time, the Ministry of Education is not consulting upon the sale values set out in O. Reg. 444/98 or on exemptions to FMV, as a separate government-wide consultation will follow on this recommendation.

Purpose of Review

The Ministry of Education aims to review O. Reg. 444/98 in order to promote its effectiveness in:

- keeping surplus school board properties within the public sphere where there is a need and a financially viable proposal, with priority given to the publicly-funded education system; and
- co-ordinating school board surplus property management processes with those of other public and community entities.

Issues for Consultation

The ministry is focusing this consultation on two issues:

1. Extending the property circulation period; and
2. Expanding the list of public entities to receive notification of surplus property disposition.

The ministry is open to hearing about other possible reforms during the consultation that would support its policy aims of keeping surplus school board properties within the public sphere and better coordination of public surplus property management processes.

Proposed Reform 1 – Property Circulation Period

Current Status

- Currently O. Reg. 444/98 provides listed entities with 90 days to make an offer in response to a proposal, plus an additional 30 days to negotiate the transaction price.

Challenge

- Some school boards and public entities find that 90 days is insufficient time to respond because they must appraise the property, arrange financing and formally approve an offer for submission to the disposing school board.

Proposed Reform 1 – Property Circulation Period

Option 1A – Two-tiered Circulation Process

- Create a two-tiered circulation process that gives coterminous boards and listed public entities 90 days to express interest in the property.
- If no interest is expressed within 90 days, the school board could seek approval to proceed to the open market.
- If interest is expressed, each coterminous board or listed public entity that expressed interest would then have an additional 90 days to submit an offer.
- Allow the board and public entity to extend the timeline subject to mutual agreement if circumstances warrant.
- If a sale with the highest priority entity that made an offer is not completed, then the board would consider the offer from the next highest priority entity.

Proposed Reform 1 – Property Circulation Period

Option 1B – Extend Circulation Period

- Extend the existing surplus property circulation period from 90 to 180 days (6 months) for coterminous boards and listed entities.
- Allow the board and public entity to extend the timeline subject to mutual agreement if circumstances warrant.

Proposed Reform 1 – Property Circulation Period

Desired Outcome

- The aim of both option A and option B is to ensure that school boards and listed entities have a better opportunity to acquire surplus property without extending property circulation periods unduly.

Questions

- Which option (A or B) best achieves the desired outcome?
- What should constitute an expression of interest in a circulated property?
- What unintended consequences might arise?
- What alternative options would you suggest and why?

Proposed Reform 2 – Listed Entities

Current Status

- School boards are required to notify the following public entities if they intend to dispose of surplus property:
 - ☐ Coterminous school boards
 - ☐ Publicly-funded colleges
 - ☐ Universities
 - ☐ Government of Ontario
 - ☐ Municipalities (lower and upper tier)
 - ☐ Local Service Boards
 - ☐ Government of Canada

Challenge

- There is inconsistency between the entities that school boards should communicate with regarding facility partnerships and surplus property disposition.
- Some of the mandatory agencies included in the revised Community Planning and Partnerships Guideline are not listed entities in O. Reg. 444/98.

Proposed Reform 2 – Listed Entities

Proposed Reform

- To the current list of entities add:
 - ☐ District Social Services Administration Boards / Consolidated Municipal Service Managers
 - ☐ Public Health Boards
 - ☐ Local Health Integration Networks
 - ☐ Children's Mental Health Centres

(Note: These are agencies listed in the CPPG, not currently listed as preferred entities in Reg. 444/98)

Desired Outcome

- To improve and promote consistency in opportunities for involvement of listed entities in school board property management processes.
- To help enable surplus school board properties to stay within the public sphere where there is a need and a financially viable proposal.

Proposed Reform 2 – Listed Entities

Questions

- Are there any entities that are not currently listed in O. Reg. 444/98 that you feel should be?
- Are there any changes you would suggest to how entities are prioritized?
- Do you have any other comments regarding entities or prioritization?

Questions or Comments

Questions

- Do you have further suggestions for reforms to O. Reg. 444/98?

APPENDIX

Appendix: Community Planning and Partnerships Guideline

- The Community Planning and Partnerships Guideline (CPPG) strengthens school board-to-community planning practices.
- The CPPG encourages school boards to effectively and systematically communicate with municipalities and other community organizations regarding planning needs and partnership opportunities.
 - Originally released as the Facility Partnerships Guideline in 2010, the CPPG was revised and renamed in 2015.
- Through the CPPG, school boards are encouraged to provide information regarding partnership-eligible space available throughout the school board and other planning data (e.g., enrolment projections, capital plans).
- Likewise, municipalities and other community organizations are invited to provide information regarding space requirements of community organizations, growth plans, greenspace needs, etc.
- *Community Hubs in Ontario: A Strategic Framework and Action Plan* recommends monitoring the implementation of this new Guideline to ensure it is meeting the needs of communities, particularly in identifying community interest in schools before the board declares it surplus to the board's needs.

Appendix: Community Planning and Partnerships Guideline

- The CPPG requires that each school board develop a community planning and partnerships policy to operationalize this process.
- The following elements are to be included in each board's policy:
 - A list of entities (minimum) to be included on a notification list
 - Entities listed in O.Reg. 444/98
 - District Social Services Administration Boards / Consolidated Municipal Service Managers
 - Public Health Boards
 - Local Health Integration Networks
 - Children's Mental Health Centres
 - An annual meeting to exchange information
 - A listing of available space
 - Criteria for preferred facility partners
 - Specifications regarding cost recovery and responsibilities of the landlord and tenant