



## REPORT TO BOARD OF TRUSTEES

### September 24, 2019

Deb Crawford, Director of Education

**SUBJECT:** Property Report – Declaration of Surplus Property and Property Disposal Process

**PREPARED BY:** Amy Janssens, Associate Director - Corporate Services & Treasurer

#### BACKGROUND:

The Board has received funding to build two new schools in Chatham. St. Angela Merici Catholic School, currently under construction on McNaughton Avenue, W. will be open to students in September 2020. A second Catholic elementary school will be built in south Chatham once the Board finalizes property acquisition. As part of the realignment of facilities in Chatham, the Board will also complete a renovation of the Our Lady of Fatima site, which will become the new home of French Immersion in Chatham, effective September 2021.

As a result, the following schools are closed to students and school staff as of the following dates:

St. Joseph Catholic School, Chatham, June 30, 2019  
 St. Vincent Catholic School, Chatham, June 30, 2020  
 St. Agnes Catholic School, Chatham, June 30, 2020  
 Monsignor Uyen Catholic School, Chatham, June 30, 2021  
 St. Ursula Catholic School, Chatham, TBD  
 Georges P. Vanier Catholic School, Chatham, TBD

The Board will use the property disposal process as outlined in this report.

Under section 194(3) of the Education Act, a board that has adopted a resolution that real property is not required for the purposes of the board, may sell, lease or dispose of the surplus property as governed by Ontario Regulation 444/98.

The Board is disposing of entrusted property assets and therefore has a Trustee fiduciary responsibility that effective public sector governance is clearly demonstrated. The Board must be in full compliance with all Legislative and Regulatory requirements, meaning that directions and decisions are clearly articulated in a timely fashion to the Preferred Agents as identified in Ontario Regulation 444/98 and the Community at large. There are two phases of the property disposition process.

#### TERMINOLOGY:

*Bona Fide Offer:* A bona fide offer is one that is presented in a legal format and will become binding upon the Board's endorsement. A letter of understanding or intent to purchase, a Board or Council motion or any other form of expressed interest to purchase does not satisfy the legislative requirement and must be rejected.

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*Disposition of Property:* (for this purpose relates to)

- An entire school and property;
- An Administrative property;
- Excess land on a piece of school property (on which a school will continue to operate);
- Vacant land;
- Exchange of Lands.

*Fair Market Value:* The most probable price in terms of money which an estate (or interest) in real property should bring in a competitive and open market under conditions requisite to a fair and typical sale between a willing seller and willing buyer, each acting prudently and knowledgeable and assuring the price is not affected by undue stimuli. It is also often referred to as the most probable selling price.

*Preferred Agents as identified in Ontario Regulation 444/98:* (Prescribed Preferred Agents receiving proposals from the Board are listed in priority sequence)

- Any school board that holds or has held in the last fiscal year a leasehold interest in the property being sold/leased;
- French Public District School Board - Scolaire Viamonde;
- English Public District School Board - Lambton Kent DSB;
- French Separate District School Board - Conseil Scolaire Catholique Providence;
- Facilities that have an agreement with the Board to provide a qualifying education program for which ministry grants under section 23 are available;
- Municipality of Chatham-Kent service system manager (Consolidated Municipal Service Manager “CMSM”);
- County of Lambton service system manager (Consolidated Municipal Service Manager “CMSM”);
- St. Clair College;
- Lambton College;
- College Boreal d’arts appliques et de technologic;
- University of Guelph (Ridgetown Campus);
- University of Western (Research Branch, Sarnia)
- Chatham Kent Children’s Services;
- St. Clair Child and Youth;
- Sarnia Lambton Children’s Aid Society;
- Erie St. Clair Local Health Integration Network (LHIN);
- Chatham-Kent Public Health Unit;
- Lambton Public Health;
- The Crown in right of Ontario;
- Municipality of Chatham-Kent;
- City of Sarnia;
- Brooke-Alvinston Township;
- Dawn-Euphemia Township;
- Enniskillen Township;
- Municipality of Lambton Shores;
- The Township of St. Clair;
- Village of Oil Springs;

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- Town of Petrolia;
- Town of Plympton-Wyoming;
- Village of Point Edward;
- Township of Warwick;
- Lambton County;
- Aamjiwnaang First Nation;
- Walpole Island First Nation;
- Delaware Nation (Moravian of the Thames);
- Kettle and Stony Point First Nation;
- The Crown in right of Canada.

## PROCEDURES:

The two phases of the property disposition process are as follows. The initiation of each phase requires separate Board approval:

### Phase 1 – Circulation to Preferred Agencies – Ontario Regulation 444/98 (180-day period)

- Following the adoption of a Board resolution declaring property surplus to the Board's needs, Ontario Regulation 444/98 can be engaged;
- The Board shall issue a proposal to sell, lease or dispose of real property to the Preferred Agencies;
- The circulation period to Preferred Agencies is a 180-day process;
- Preferred Agents have 90-days to submit an Expression of Interest (EOI) and an additional 90-days to submit a bona fide offer;
- No offers can be considered by the Board until the expiry of the 180-day circulation period;
- Bona fide offers to purchase received at the conclusion of the 180-day period must be dealt with in accordance with the regulatory requirements of Ontario Regulation 444/98;
- If no bona fide offers to purchase are received at the conclusion of the 180-day period, then Ministry and Board approval must be given prior to proceeding to Phase 2; using alternative methods to dispose of surplus property to others;
- The Board is compelled to satisfy all of the conditions of Ontario Regulation 444/98 and has no authority to alter, deviate or change in any way the legislative requirements;

### Phase 2 – Sale of Property on the Open Market (three-year window from 180-day circulation expiry date)

- If the Board does not receive an expression of interest or a bona fide Offer to Purchase through the 180-day circulation period to the Preferred Agencies; and,
- Subject to the Board receiving Ministry approval to dispose of the property to others;
- The Board will be in a position to dispose of the surplus property at "Fair Market Value" as guided by Administrative direction by way of:
  - Public tendering bid process (opening of tenders closed to the public);
  - Receive Offers to Purchase;
  - Publicly advertise and negotiate a sale;
  - Engage a professional Real Estate firm to sell on behalf of the Board;
  - Transact with an individual purchaser (single source purchaser), when dealing

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- with a unique set of land or development circumstances;
- Administration will provide a monitoring report to the Board outlining the details of an acceptable Offer;
- All property disposition transactions require:
  - Compliance with all provincial and municipal requirements
  - Professional market value assessment
  - Agreements and/or applications to be in a form satisfactory to the Board's solicitor
- Details regarding the sale of Board property is confidential and cannot be released to the public until the sales transaction has closed and title of ownership has been transferred.

By declaring the schools still in use as surplus now, administration can start the process of disposal prior to closure. The Ministry of Education Capital Branch and the Board's solicitor have been consulted and they have confirmed that nothing in the regulation prevents that the process can start prior to closure.

**RECOMMENDATIONS:**

**That the St. Clair Catholic District School Board receive the report: *Property Report – Declaration of Surplus Property and Disposal Process*, for information.**

**That the St. Clair Catholic District School Board approve the following properties be declared surplus and that staff be directed to initiate the disposition process in accordance with Regulation 444/98 of the Education Act.**

- 1) **St. Joseph Catholic School, Chatham**
- 2) **St. Vincent Catholic School, Chatham as of June 30, 2020**
- 3) **St. Agnes Catholic School, Chatham as of June 30, 2020**
- 4) **Monsignor Uyen Catholic School, Chatham as of June 30, 2021**