



MEMORANDUM

TO: Phillip Penn

Cc: Dr. Iline Tracey, Matt Wilcox, Natalia Sieira Millan

FROM: Tom Mooney

RE: Process for Returning Property Dedicated to School Use Back to the City

DATE: May 2, 2021

By email dated April 19, 2021, you conveyed a request as follows, “We’ve been asked by Matt Wilcox for a list of the steps necessary to return a property that’s no longer being used as a school to the City. Similarly, he wants to know if there’s any formal notification that needs to be delivered to the State.”

By return email dated April 19, 2021, I responded:

The answer is that the Board must vote to acknowledge that the property is no longer used for school purposes, and thereby control of the property reverts to the City by operation of law. Conn. Gen. Stat. Section 10-220 provides in relevant part:

“Each local and regional board of education . . . shall have the care, maintenance and operation of buildings, lands, apparatus and other property *used for school purposes*” (Emphasis added).

Board of education jurisdiction derives from the use of the property for school purposes, and absent such use, there is no jurisdiction over the use of the property. I am not aware of any notification required to the state, but to be thorough, please tell me if this property was the subject of a school building project in the last twenty years. There could be a related notification requirement in such a case.

Though the concepts are simple, I understand that this is an important issue. Accordingly, I will be happy to send you a short memorandum explaining the process.

As promised, I am following up on that brief response.

First, there is no formal statutory process for a board of education in Connecticut to return property to the municipality. Control over property dedicated to use for school purposes is vested in the board of education by three different statutes.

- Connecticut General Statutes, Section 10-220(a) provides in relevant part:

a) Each local or regional board of education shall maintain good public elementary and secondary schools, . . . shall have charge of the schools of its respective school district; . . . [and] ***shall have the care, maintenance and operation of buildings, lands, apparatus and other property used for school purposes.***” (Emphasis added).

- Connecticut General Statutes, Section 10-237 provides:

Sec. 10-239. Use of school facilities for other purposes. (a) Any local or regional board of education may provide for the use of any room, hall, schoolhouse, school grounds or other school facility ***within its jurisdiction*** for nonprofit educational or community purposes whether or not school is in session. (Emphasis added).

(b) Any local or regional board of education may grant the temporary use of rooms, halls, school buildings or grounds or any other school facilities ***under its management or control*** for public, educational or other purposes or for the purpose of holding political discussions therein, at such time when the school is not in session and shall grant such use for any purpose of voting under the provisions of title 9 whether or not school is in session, in each case subject to such restrictions as the authority having control of such room or building, grounds or other school facility considers expedient. (Emphasis added).

- Connecticut General Statutes, Section 10-240 provides:

Sec. 10-240. Control of schools. Each town shall ***through its board of education maintain the control of all the public schools*** within its limits and for this purpose shall be a school district and shall have all the powers and duties of school districts, except so far as such powers and duties are inconsistent with the provisions of this chapter. (Emphasis added)

From these statutes, we see that board of education jurisdiction over school facilities in Connecticut derives from the dedication of the property to use for school purposes and the use of such property for that purpose. The corollary is that the board of education no longer has jurisdiction or control over such property when it is no longer used for school purposes.

Accordingly, there is no statutory process for returning property used for school purposes to the City. Rather, when the Board of Education is no longer using a school (or other property) for school purposes, control over the property reverts by operation of law to the City. To avoid uncertainty on this point, however, I recommend that the Board of

Education vote to acknowledge that the school or other property in question is no longer being used for school purposes and that it therefore reverts to City control. An example of such a motion is:

MOVED: That the Board of Education hereby relinquishes control over [describe property] with the understanding that control over such property reverts to the City, and

FURTHER MOVED: That the Superintendent of Schools is directed to notify the City of this action.

Second, while there is no general statutory requirement in general that the Board of Education notify the State of this action, there are two related points to consider.

First, as I raised in my email response to your question, there may be consequences if the Board of Education relinquishes control of a school that was constructed or renovated with State aid. The State would be concerned if it paid part of construction or renovation costs for a school facility and the board of education then turned control over that facility back to the municipality so that no further educational benefit would derive from the expenditure. Accordingly, there may be an obligation to reimburse the state for part of the construction grants in such a case. Please let me know if the school in question was renovated or constructed with State aid in the last twenty years, and we will research the consequences of the Board of Education's relinquishing control over the property as it relates to State grants.

Finally, I am not aware of all the various state reports that the State Department of Education requires and whether some reports ask that the Board of Education provide data by school. If such is the case, it is advisable to include a notation on any such report that the school in question is no longer in service so that the State Department of Education does not incorrectly infer that the district has failed to provide required information as to that school.

I hope that this information is helpful to you and the Board of Education. Please let us know whether and how we can be of further assistance in this matter. Thank you.