

REAL ESTATE – ACQUISITION, DISPOSAL, LEASE AND IMPROVEMENT

ACQUISITION OF REAL ESTATE

Acquisition of full ownership or easements; improvements

The New Hanover County Board of Education may acquire suitable sites and easements for school buildings or other school facilities by gift, purchase, exchange or condemnation. No school building may be erected upon land that is not owned in fee simple* by the Board. No contract for the purchase of a site shall be executed, nor any funds expended therefore, without approval of the Board of County Commissioners as to the amount to be spent for the site; provided that, in the event of a disagreement between the Board and the Board of County Commissioners as to the amount to be spent for the site, the procedure established by law shall be used to settle the disagreement.

*The term "fee simple" as used in this Policy means "fee simple absolute", which is the entire and absolute property in land. It is the most extensive estate or interest that can be owned in land and has a potentially infinite duration. The owner of property owned as "fee simple absolute" has the unconditional power to dispose of the entire property, except that public bodies such as the Board must follow the procedures applicable to the disposal of public property.

Acquisition by lease; improvements

The Board may lease real property for school buildings or school facilities. Such leases are known as operational leases. Operational leases of real property for a term of less than three (3) years do not require the approval of the Board of County Commissioners, whereas such leases for three (3) or more years require such approval of the Board of County Commissioners and must comply with the other conditions set forth in North Carolina General Statutes 115C-530(a). The Board may enter into contracts for the construction, repair or renovation of real property that it has acquired by lease under the conditions set forth in NCGS 115C-530(b),(c), and 115C-441(c1), as applicable. Operational leases and contracts to improve real property acquired by lease are subject to the approval of the Local Government Commission if they extend for five (5) or more years and obligate the Board to make payments to another entity of Five Hundred Thousand Dollars (\$500,000.00) or more.

DISPOSING OF OR LEASING THE BOARD'S REAL ESTATE

Disposing of full ownership in real property

The Board may dispose of its full ownership interest in real property by sale or exchange for other real property if the Board finds the property to be unnecessary or undesirable for public school purposes, but before selling its real property it must first offer the real property to the Board of County Commissioners at a fair price or at a price negotiated between the two Boards. Any sale of real property other than a sale to the Board of County Commissioners, must be for adequate consideration and done in accordance with NCGS 115C-518 and applicable Constitutional and case law. Any valid restrictions placed on the use or disposal of real property acquired with money obtained through a grant shall be honored, except as may be allowed by the granting authority. The proceeds of any sale of real property shall be applied to reduce the County's bonded indebtedness for the New Hanover County Schools or for capital outlay purposes.

Leasing real property to third parties

The Board may lease any of its real property to third parties if it finds that the real property will not be needed during the term of the lease. If the lease is for ten (10) years or more, it is considered a sale of real property for purposes of the procedures to be used, except that only the leasehold interest will be conveyed. The Superintendent or designee may lease or execute facility use agreements for any of the Board's real property for periods not exceeding one (1) year. For leases of the Board's real property of ten (10) years or less, the Board and Superintendent shall endeavor to obtain fair consideration. The proceeds of any lease of real property for a term of over one (1) year shall be applied to reduce the County's bonded indebtedness for the New Hanover County Schools or for capital outlay purposes.

Granting easements

The Board may grant easements over its real property. If the easement is to any public utility, municipality or quasi municipal corporation to furnish utility services, or constitutes the dedication of rights-of-way for public streets, roads or sidewalks, it may be conveyed with or without compensation except for the benefits accruing by virtue of the location or improvement of said public utility, street, road or sidewalk. Otherwise, the procedures for the sale of the Board's real property shall be followed, as applicable.

LEGAL REFS: NCGS 115C-517, - 518, -426, -521, -530; 160A-265 through 274
NC Constitution, Article IX, Section 7; Boney v. Board of Trustees, 229 NC 136
(1948).

Adopted: 04/14/87

Revised: 05/01/12