

School Board Action Report

“Every student achieving, everyone accountable”



DATE: June 4, 2009
FROM: Dr. Maria Goodloe-Johnson, Superintendent
LEAD STAFF: Fred Stephens, Director Facilities

**STRATEGIC THEME/
FOCUS AREA:** Business and Operational Effectiveness – Property Management

TITLE AND BRIEF DESCRIPTION

Approval of sale of a portion of the Jefferson Square Property	For Introduction:	June 17, 2009
	For Action:	July 1, 2009

Approve sale of the residential portion of the Jefferson Square property to the tenant for \$500,000.

TIMELINE FOR IMPLEMENTATION/EVALUATION

- | | |
|---------------------------------------------|---------------|
| • Director of Facilities Review | June 4, 2009 |
| • Chief Financial Operations Officer Review | June 10, 2009 |
| • Superintendent Review | June 12, 2009 |
| • Finance Committee Review: | June 11, 2009 |

RECOMMENDED MOTION

I move that Board authorize sale of the residential portion of the Jefferson Square property to the tenant, Jefferson Square LLC, for \$500,000 as part of settlement of pending litigation involving the property.

ISSUE

The school site is located in West Seattle and was closed nearly 30 years ago. The District leased it for 99 years to a developer who built the existing complex on site. The complex includes both shops and an apartment structure, as well as a parking garage serving both commercial and residential tenants.

In the year following the original lease, the developer asked for the lease to be split into two parts. One would be for the residential portion of the site and one for the commercial portion. All of the rental charges would apply to the commercial property. The District currently receives over \$173,226 annually.

The apartment building sits atop the commercial structure. Conceptually, the residential lease is for "air rights" and not of the land itself. In addition, the residential tenant is entitled to "support" of the apartment structure. The District owns the land itself.

The residential lease has been assigned several times and is currently held by Jefferson Square, LLC. The lease contains a provision that gives the tenant the right to purchase the residential area for \$1. In 2007, the tenant sent the District a notice it was exercising the option.

Even though the lease still has 75 years to run and the District will receive no rent for the residential portion during that time, the District refused to sell the property, believing the \$1 amount to be inadequate compensation.

The tenant sued the District over the refusal to sell. In March 2009, the parties reached a tentative agreement to allow the sale to proceed, but at a price of \$500,000. The agreement is subject to School Board approval, which is now being requested.

In accordance with state law, the District held a public hearing on May 21, 2009 and took public testimony on whether the sale should occur. One person attended and spoke against the sale.

The District also obtained an appraisal of the fair market value of the property interest. State law requires that the purchase price exceed 90% of the appraised fair market value. The price of \$500,000 is in excess of 90% of the appraised value. The appraisal will be available for public review after the sale is completed.

The entire Jefferson Square site is surplus to the needs of the District, as indicated in the Facility Master Plan, and may be sold without affecting the District's long term needs for school sites.

BEST PRACTICES

Best practices are to resolve disputes on terms favorable to the District where possible. This settlement provides the District with a cash payment, in lieu of receiving no money at all prior to 2083. If the litigation were lost, the District would be required to sell the property for just \$1.

RESEARCH AND DATA SOURCES

Research into the value of the property was conducted in the form of a fair market appraisal by a Member of the Appraisal Institute.

POLICY IMPLICATION

Resolution of litigation allows management to focus on other matters important to the District

Sale of surplus property does not impair the District's long term need for school sites.

FISCAL IMPACT/REVENUE SOURCE

\$500,000 in cash will be deposited into the Capital Eligible Fund, to be spent as directed by an approved Capital Budget.

COMMUNITY ENGAGEMENT PROCESS

A public hearing was held as required by state law.

CONCLUSION/RECOMMENDATION

Authorize sale of the residential portion of the Jefferson Square property to Jefferson Square LLC for \$500,000, as part of settlement of litigation relating to the property.