

**NOVEMBER 22, 2013 SPECIAL BOARD MEETING
ATTACHMENTS**

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POLICY AND/OR PROCEDURES

Information

1.	Procedure 530, Construction Of Building On Third Party Land	23509/13

Housekeeping

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2.		
3.		
4.		

BOARD OF TRUSTEES

**COLIN KELLY
TRUSTEE OF THE BOARD**

DATE: NOVEMBER 22, 2013

PRESENTED BY: DENNIS WALSH, SECRETARY-TREASURER

**SUBJECT: PROCEDURE 530, CONSTRUCTION OF BUILDINGS ON THIRD PARTY
LAND**

ORIGINATOR: DENNIS WALSH, SECRETARY-TREASURER

RECOMMENDATION
That the Board of Trustees approve Procedure 530, Construction of Buildings on Third Party Land, as attached.

CURRENT SITUATION:

The October 2010 Management Letter recommended Northland develop processes to ensure it obtains a valid legal interest in land before beginning construction of schools, this will satisfy that request.

BACKGROUND:

OPTIONS:



Procedure 530

Construction of Buildings on Third Party Land

Background

From time to time Northland School Division No. 61 (the "Division") may wish to construct school or other buildings on lands not owned by the Division (the "Third Party Lands"). The purpose of this Procedure is to establish a process for ensuring that the Division has an appropriate legal interest in the Third Party Lands prior to commencing construction of the buildings on such lands. This Procedure is not intended to deal with permitting, licensing and other issues that will need to be addressed as part of the construction process.

Procedure

1. The procedure for identifying the scope, duration and terms of the Division's interest in the Third Party Lands will involve the board, government departments and administration.
2. No construction of any building, to be owned or paid for by the Division, on Third Party Lands shall commence, and no commitments shall be made to third parties with respect to the development or construction of such building, until such time as the Division has properly formalized its legal interest in the Third Party Lands, in writing.
3. It is anticipated that the Division's interest will be formalized through a written long-term lease. However, it is possible that the interest will be formalized in some other fashion, acceptable to the Division in consultation with its advisors.
4. The Superintendent or designate shall be responsible for coordinating the negotiation and finalization of the documentation respecting the Division's interest in the Third Party Lands. The Superintendent or designate shall present the documentation of the board for consideration and final approval.
5. In undertaking the drafting, negotiation and finalization of the documents to formalize the Division's interest in the Third Party Lands, the Division should consider, and take into account, the items identified under the heading "Considerations" below.



**Construction of
Buildings on
Third Party Land**

Considerations

The following is a non-exclusive list of typical items for the Division to consider when drafting, negotiating and finalizing documentation with respect to its interest in the Third Party Lands. The particular terms are to be considered on a case by case basis and will be dependent on the circumstances, including any special or particular needs of the Division, the Third Party and the particular Third Party Lands.

1. The uses that the Division can make of the Third Party Lands must be acceptable and appropriate and include the ability of the Division to construct and maintain the building and improvements and to carry out the anticipated operations, including the operation of a school (if applicable).
2. The documentation should clearly identify the applicable legal description of the Third Party Lands, and clearly identify what portion of the Third Party Lands is being provided to the Division (including a survey or sketch, as applicable).
3. The Division's interest in the Third Party Lands should be for an appropriate period of time. The length of the term and any renewal period will depend on the circumstances and should be considered on a case by case basis. Ideally, the term of the interest should be for as long as possible, taking into account the circumstances and applicable law. The Division should also attempt to obtain an option to renew for a further period.
4. The rent should be a nominal amount (ie. \$1.00 for the term).
5. The documentation should be clear with respect to ownership of the building, the improvements and any personal property.
6. The documentation should contemplate who owns the building and improvements upon the Division moving out of the space (ie. Becomes property of the Third Party (with or without payment) and should clearly identify any buildings, structures or improvements that will remain on the Third Party Lands or be removed at the end of the term, if applicable.

Legal Reference: School Act
 Northland School Division Act