



## ONN Submission to the Ministry of Education

### Consultation on Disposition of Surplus Real Estate Property (Ontario Regulation 444/98)

November 10, 2015

#### ONN supports the objectives of the review:

- to keep surplus school board properties within the public sphere,
- to give priority to publicly-funded education uses and
- to coordinate school board surplus property management processes with those of other public and community-governed entities.

#### Reform 1 - Extending the property circulation period.

##### 1. We support a Modified Option 1A

*We recommend a 90-day period for organizations to make a proposal but, based on our experience administering the [Nonprofit Lands Registry](#) for eligible nonprofits to access the Realty Disposal Publication Website ("provincial lands registry"), organizations and school boards require up to **an additional 180 days** to reach an agreement.*

The period of time after a proposal is accepted is necessary for purchasers to arrange financing and negotiate the price and terms with the seller. One hundred and eighty days is essential if community organizations are to be encouraged to purchase or lease. They will need to involve partners and funders to find financing. Some properties such as heritage properties may require additional extensions.

#### Comments

Our experience with the ONN Nonprofit Lands Registry and the *Realty Disposal Publication Website* is that a **pre-screening of interested community parties prior to their having access to the listed properties** is useful in that it discourages parties without reasonable plans and capacity for financing from expressing interest in a circulated property. Without pre-screening, it is likely that groups will express an interest without the ability to follow through. This could waste significant time on the part of all stakeholders in the sale of the property.

For a look at how the existing Nonprofit Lands Registry for access to surplus provincial lands works, see:  
<http://theonncan.ca/services/nonprofit-lands-registry/>

**ONN's Nonprofit Lands Registry** gives eligible nonprofits the opportunity to access Infrastructure Ontario's *Realty Disposal Publication Website*, a list of surplus properties, before they go to the open market.

<http://theonncan.ca/services/nonprofit-lands-registry/>

**Requests for expressions of interest** could require the purchaser to identify the use intended for the building. In this way, if there are multiple offers, the school boards could choose the one

most compatible or **offering the greatest community benefit based on locally-identified priorities**. The development of Provincial community hubs policy could also provide weighted criteria of community benefit that could assist with purchaser selection.

Every sale should **include a restricted covenant on resale of the property mandating that it be offered first to public and community-governed organizations**. The purchaser would be required to offer the property to public benefit organizations through the ONN registry or a similar lands registry. This would enshrine the principle of public lands in public hands. It would also prevent “flipping” of properties purchased as public lands into private use.

## **Reform 2 – Listed Entities**

The addition of Local Health Integration Networks (LHINs) and children’s mental health centres is too restricted and too limiting. Moreover it is not supportive of the development and broad definition of community hubs, which is the policy objective driving the review of Ontario Regulation 444/98. As the Premier’s Community Hubs Framework Advisory Group notes in their recent report:

*When people think of community hubs, they think of places where people come together to get services, meet one another and plan together. We’ve heard that community hubs are gathering places that help communities live, build and grow together. No community hub is like another, as each brings together a variety of different services, programs and/or social and cultural activities to reflect local community needs. It is this diversity of activity that allows community hubs to play a critical role in building economic and social cohesion in the community.<sup>1</sup>*

We have an opportunity to learn from the Province’s experience with expanding access to the Infrastructure Ontario (IO) Loans Program to nonprofit organizations. The Province selected limited types of organizations to have access to IO loans as “community hubs” and the result was that very few projects were approved and community access to services was not substantially improved. The restrictive community hub criteria were not responsive to community need. Community hubs eligible for IO loans required a community health center or adult addiction and mental health service to partner with a Ministry of Community and Social Services/Ministry of Children and Youth Services-funded organization or a settlement service.<sup>2</sup> If the local community health and addiction services were satisfactorily located, other community groups needing facilities could not form a community hub by themselves and access IO loans.

The “listed approach” in Regulation 444/98 risks making the same mistake and the consequences of excluding other community groups from purchasing schools is very significant as they are often excellent facilities for community activities. Groups excluded by this “listed approach” are diverse: developmental service providers, social enterprise and employment training services, seniors’ services, recreation, sports and arts groups, multi-service neighbourhood centers, early years services and more.

---

<sup>1</sup> <http://www.ontario.ca/page/community-hubs-ontario-strategic-framework-and-action-plan>

<sup>2</sup> <http://theonnc.ca/infrastructure-ontario/>

**We recommend that all organizations eligible to be listed on the ONN Nonprofit Lands Registry be eligible to be notified and to purchase surplus school properties.** These organizations meet the following eligibility criteria:

- Not-for-profit corporations that provide a public benefit will be considered for inclusion on the registry and must fulfill the following criteria:
  - a) Be a registered charity in good standing with the Canada Revenue Agency; or
  - b) Be incorporated as a not-for-profit organization without share capital under federal or provincial not-for-profit, corporate or cooperative legislation;
- AND all of the following:
  - c) Be a registered Member of the Ontario Nonprofit Network; and
  - d) Have a mandate/mission that is dedicated to providing a public benefit good or service to individuals and/or communities in the Province of Ontario; and
  - e) Provide the public benefit to a faction of the public/community beyond a narrowly defined or closed membership group, such as private clubs or industry associations; and
  - f) Be accepted by its community as a community asset and/or resource (evidence of government funding, financial donations or investment from local community and/or provision of community programming for a nominal fee); and
  - g) Have a constraint in its bylaws that prohibits distribution of assets to members on dissolution (provides for gifting residual assets to public benefit organizations).
- Eligible not-for-profit corporations will also need to be able to demonstrate financial and organizational capacity to submit an offer to purchase surplus real estate at market value.

The onus should be on the group seeking to purchase to provide evidence of community benefit rather than picking only select groups eligible to apply. Since the ONN lands registry and proven criteria already exist, there is no reason that surplus school properties cannot be offered to a broader group of community-governed groups with great success especially if the property is sold with a “public domain covenant” on the property.

Our experience with community nonprofit organizations’ applications to IO loans has taught us how diverse, organic, creative and unique communities and their local organizations are. Community leadership comes from many places. We learned about a service club in a small town in Ontario that wanted to buy and renovate a property to house all its local services and provide a community gathering place. Under Regulation 444/98 they would not be eligible to bid on a surplus school under the “listed approach” even though they might be the best opportunity to repurpose the local surplus school into a huge asset for the community.

### **Market Value**

We note that the issue of market value sales and the circumstances where this principle may need modification will be the subject of a separate consultation. Our experiences with the lands registry and the infrastructure loan program have informed our ideas on this issue and we look forward to being consulted as you move forward. We have some creative thoughts on the sale and purchase of public lands.

## **About the Ontario Nonprofit Network**

Organized in 2007, the Ontario Nonprofit Network (ONN) is the convening network for the approximately 55,000 nonprofit organizations across Ontario. As a 7,000-strong provincial network, with a volunteer base of 300 sector leaders, ONN brings the diverse voices of the sector to government, funders and the business sector to create and influence systemic change. ONN activates its volunteer base and the network to develop and analyze policy, and work on strategic issues through its working groups, engagement of nonprofits and charities and government.