



MURIEL BOWSER
MAYOR

2019 FEB 28 PM 12:53
OFFICE OF THE
SECRETARY

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration by the Council is the following legislation entitled the “Old Hardy School Disposition and Lease Approval Emergency Declaration Resolution of 2019”; the “Old Hardy School Disposition and Lease Approval Emergency Act of 2019”; the “Old Hardy School Disposition and Lease Approval Temporary Act of 2019”; and the “Old Hardy School Disposition and Lease Approval Act of 2019”.

As you may recall, Council approved the “Hardy School Disposition and Lease Authorization Emergency Amendment Act of 2016” in December 2016. While not opposed to the disposition of the Hardy School building to the Lab School, I returned the bill unsigned due to my substantial concerns regarding the encroachment on the separation of powers between the legislative and executive branches established in the Home Rule Act.

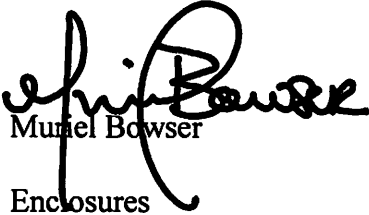
The Mayor’s authority to dispose of surplus District property is established in the Home Rule Act. Although the emergency bill did not mandate the disposition, it was an overreach of the Council’s legislative authority as the Executive is the proper body to initiate District property dispositions. In addition, the bill encroached upon an executive function by selecting a specific entity to which a property would be disposed.

The District and the Lab School are currently in negotiations regarding the terms and conditions of the proposed lease agreement. Therefore, I am transmitting the attached legislation. I urge the Council to take prompt and favorable action to approve the “Old Hardy School Disposition and Lease Approval Emergency Declaration Resolution of 2019”; the “Old Hardy School Disposition and Lease Approval Emergency Act of 2019”; the “Old Hardy School Disposition


and Lease Approval Temporary Act of 2019”; and the “Old Hardy School Disposition and Lease Approval Act of 2019”, in accordance with the support you have already demonstrated by your approval of the “Hardy School Disposition and Lease Authorization Emergency Amendment Act of 2016.”

If you have any questions, please contact Keith Anderson, Director, Department of General Services, at (202) 727-2800.

Sincerely,


Muriel Bowser

Enclosures


Chairman Phil Mendelson
at the request of the Mayor

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill, which was referred to the Committee on _____.

To amend An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes and to dispose of, by ground lease, District-owned real property located at 4470 Q Street, N.W. (also known as 1550 Foxhall Road, N.W.), commonly known as the Old Hardy School and more specifically designated for tax and assessment purposes as Lot 0980 in Square 1363, to The Lab School of Washington, Inc.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Old Hardy School Disposition and Lease Approval Act of 2019".

Sec. 2. Section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801), is amended by adding a new subsection (g-1) to read as follows:

“(g-1) Notwithstanding the requirements of this section and section 2209 of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38- 1802.09), the Mayor may dispose of District-owned real property located at 4470 Q Street, N.W. (also known as 1550 Foxhall Road, N.W.) (“Property”), commonly known as the Old Hardy School and more specifically designated for tax and assessment purposes as Lot 0980

37 in Square 1363, to The Lab School of Washington, Inc. (“Lessee”) through a negotiated ground
38 lease of greater than 15 years, which shall include the following terms:

39 (1) Lessee shall redevelop the Property in accordance with plans approved by the
40 District and shall use the Property primarily as an educational facility.

41 (2) Lessee shall enter into an agreement with the District governing certain
42 obligations of Lessee under the Small, Local, and Disadvantaged Business Enterprise
43 Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C.
44 Official Code § 2-218.01 *et seq.*) (“CBE Act”), including the equity and development
45 participation requirements set forth in section 2349a of the CBE Act (D.C. Official Code § 2-
46 218.49a). The agreement shall require Lessee to contract with certified business enterprises for at
47 least 35% of the contract dollar volume of the redevelopment of the Property, if any, and if
48 possible, shall require at least 20% equity and development participation of local, small and
49 disadvantaged business enterprises.

50 (3) Lessee shall enter into a an agreement with the District governing certain
51 obligations of Lessee pursuant to section 4 of the First Source Employment Agreement Act of
52 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor's
53 Order 83-265 (November 9, 1983), regarding job creation and employment generated as a result
54 of any construction on the Property.”

55 Sec. 3. Fiscal impact statement.

56 The Council adopts the fiscal impact statement in the committee report as the fiscal
57 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
58 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

59 Sec. 4. Effective Date.

60 This act shall take effect following approval by the Mayor (or in the event of veto by the
61 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
62 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
63 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1), and publication in the District of
64 Columbia Register.

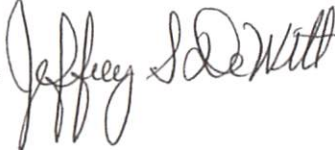
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: February 11, 2019

SUBJECT: Fiscal Impact Statement – Old Hardy School Disposition and Lease
Approval Emergency Act of 2019

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on January 11,
2019

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

The bill authorizes the Mayor to dispose of the Hardy School building located at 4470 Q Street, N.W.¹ to the Lab School of Washington, Inc. The Mayor can enter a ground lease with the Lab School for a term greater than fifteen years and the District must approve any redevelopment plans for the property, as long as the property is maintained primarily as an educational facility. The Lab School currently leases the Hardy School Building from the District under a lease that runs through December 31, 2023.²

The Lab School must sign a First Source Agreement³ with the District and use Certified Business Enterprises for at least 35 percent of the contract dollar volume of any redevelopment of the property and 20 percent equity and development participation.

¹ Known for tax assessment purposes as Square 1363, Lot 980.

² The District exercised the final five-year option period with the Lab School in November 2018.

³ First Source Employment Agreement Act of 1984, effective June 29, 1985 (D.C. Law 5-93; D.C. Official Code § 2-219.03).

The Honorable Phil Mendelson

FIS: "Old Hardy School Disposition and Lease Approval Emergency Act of 2019," Draft Bill as shared with the Office of Revenue Analysis on January 11, 2019

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The District and the Lab School are currently in the final five-year extension of their existing lease agreement that pays the District approximately \$126,000 annually after capital improvement rental credits. A new long-term lease has not yet been finalized, but the Department of General Services' preliminary discussions indicate that the new lease rent amounts will be similar to those in the existing lease and that a new lease would terminate the existing extension and begin immediately upon execution. The new lease will include an allowance for rental credits for both previous and future capital improvements to the Hardy School.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



**ATTORNEY GENERAL
KARL A. RACINE**

Legal Counsel Division

MEMORANDUM

**TO: Alana Intrieri
Executive Director
Office of Policy and Legislative Support**

**FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division**

DATE: January 17, 2019

**SUBJECT: Legal Sufficiency Review of the “Old Hardy School Disposition and Lease Approval Emergency Act of 2018” and Accompanying Emergency Declaration, the “Old Hardy School Disposition and Lease Approval Temporary Act of 2018” and the “Old Hardy School Disposition and Lease Approval Act of 2018”
(AE-16-739D)**

This is to Certify that this Office has reviewed the above-referenced legislation and that we have found it to be legally sufficient.

If you have any questions in this regard, please do not hesitate to call me at 724-5524.

Janet M. Robins