

Ontario Regulation 374/23: Acquisition and Disposition of Real Property

On December 31, 2023, Ontario Regulation 374/23: Acquisition and Disposition of Real Property came into effect replacing the former Ontario Regulation 444/98. The updated regulation made a variety of changes to the acquisition and disposition of school board properties. As part of the new regulation, boards will regularly submit property information to the Ministry of Education for review.

Acquisition

Acquisition modifications include a new framework for the acquisition of shared-use sites with and clarification for the 60-day notification period.

Disposition

The Disposition process was modified to include a discretionary and mandatory sale of property led by the Ministry of Education.

Discretionary Disposition

A board may sell, lease or otherwise dispose of a school site, part of a school site or other property of the board if the board adopts a resolution that the property is not required for the purposes of the board. In addition, the board may dispose of a site if the disposition is a reasonable step in a plan to provide accommodation for pupils such as a land swap. All dispositions must obtain Minister's approval.

Mandatory Disposition

If a board has identified, through the reports and information required that a school site or other property of a board is not currently being used and the site or property is not needed to meet the board's current pupil accommodation needs or its pupil accommodation needs for the next 10 years, the Minister shall:

- consider whether additional factors need to be considered or consultation needs to be completed before a decision can be made with respect to whether the property must be disposed of; and
- after considering any additional factors and completing any consultation, notify the board whether it is required to dispose of the property and if so, that the board shall,
 - sell the property, or
 - lease or otherwise dispose of the property, if the Minister approves.

The Minister may exempt a school site or property from the process if the board demonstrates, to the satisfaction of the Minister, that it will need the property for pupil accommodation at a time more than 10 years in the future.

Fair Market Value

A sale, lease or other disposition must be at fair market value.

For more information on the O. Reg 374/23 please see: <https://www.ontario.ca/laws/regulation/r23374>

Ontario Regulation 374/23 Next steps include:

- Update HWDSB Property Disposition Policy 2.4 and Property Disposition Procedure to align with O. Reg. 374/23
- Submit property information to Ministry of Education when the data intake process begins. Expected Spring 2024.

Use of Proceeds of Disposition

In June 2015, the Ministry of Education released the Proceeds of Disposition (POD) Policy which incorporates several changes to how Proceeds of Disposition can be spent. As per the policy PODs must be used for the repair or replacement of components within a school. Boards must spend a minimum 80% of their PODs on building substructure (e.g. foundations, walls), superstructure (e.g. roofs, window) and service (e.g. plumbing, HVAC, fire). The remaining 20% can be used to address the three above-mentioned categories as well as interiors, equipment, furnishings, special construction and building site work. Boards can request to use PODs for capital priorities (e.g. new schools, replacement school) through a Minister's exemption.

Property Acquisition through Educational Development Charges

Educational Development Charges (EDCs) are a primary source of funding site acquisition needs for a school board experiencing growth within its jurisdiction. The effective implementation date for the board's EDC by-law is July 6, 2019. The by-law has a term of five years and applies to building permit applications that have been submitted to the City of Hamilton after July 5, 2019 in relation to a building or structure for below ground or above ground construction. The By-law will expire on July 5, 2024. The EDC bylaw is currently under review and is scheduled to be renewed pending Ministry of Education and HWDSB Trustee approval in June 2024. If approved the bylaw will be in effect for 5 years.

For more information on Educational Development Charges please visit HWDSB's [EDC Webpage](#).

Properties for Sale

For up-to-date information on the sale properties please refer to HWDSB’s Properties for Sale [webpage](#).

Vacant Properties

The Hamilton-Wentworth District School Board owns vacant sites around the City of Hamilton. These may be used as future school locations or be sold at a later date. HWDSB also owns two additional sites used for parking. The following is an inventory of vacant sites owned by the Hamilton-Wentworth District School:

Vacant Property

Name of Site	Municipal Address	Acres
Falkirk West	Upper Paradise Rd. , Hamilton	6.00
Pleasant Grove	2339 5th Concession Rd. W., Troy	0.50

Parking Sites

Name of Site	Municipal Address	Acres
Bennetto Parking Site	400 John St. N., Hamilton also 88 Ferrie St., Hamilton	0.80
Bernie Custis SS Parking Site	60 Balsam Ave. N., Hamilton	1.61

Holding Properties

Holding The following properties have been identified as holding properties in the Board’s Property Strategy:

- Sir Isaac Brock
- Sir John A. MacDonald
- Hill Park Learning Centre

These holding properties are held in the Board’s inventory. There is no intention to declare these properties surplus or move forward through Ont. Reg. 374/23. The rationale to include these two Sir Isaac Brock and Sir John A. Macdonald properties as holding schools is for future growth opportunities, as these locations are situated in areas where there is potential for future residential growth, and also in areas where HWDSB has aging schools that are nearing the end of their life-cycle. Hill Park Learning Centre is presently being utilized by HWDSB for continuing education, welcome centre, special education programming as well as home to the HWDSB Archives. Beginning in September 2024, the Sir Isaac Brock campus will accommodate continuing education program currently at the Parkway Learning Centre.