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MEMORANDUM

Date: 9 November 2025
To: President Anderson and Board of Trustees
School District 65
From: Victor P. Filippini, Jr.
Re: Lincolnwood School Deed Restrictions

Background

Upon reviewing materials that District 65 (the “***District***”) made available regarding its Structural Deficit Reduction Plan (“***SDRP***”), I noted that the SDRP materials presented multiple scenarios that would result in the closing of the Lincolnwood Elementary School (“***Lincolnwood***”). I further noted that the SDRP materials included the potential “selling [of] unused facilities and allocat[ing] proceeds towards the Master Facilities Plan.” [D65 Financial Analysis 2-24 - BoardBook Premier](#). Knowing that the Perkins Woods adjacent to Lincolnwood have vernal wetlands at its easternmost boundary, I was concerned that the District may have placed an unwarranted value on the Lincolnwood property (the “***Property***”) in thoughts of selling it for development, especially because the District’s Property Assessment Submission [[EvanstonSkokie-School-District-65-Property-Assessment-FinalSubmission.pdf](#)] (the “***Assessment Report***”) was silent about the wetlands.¹

My concern prompted me to file a Freedom of Information Act (“***FOIA***”) request with the District that sought, *inter alia*:

All property records regarding the District’s interest in the Lincolnwood School campus (a/k/a 2600 Colfax Street, Evanston IL) and the Kingsley School campus (a/k/a 2300 Green Bay Road, Evanston IL), including without limitation deeds, surveys, covenants, and title reports.

The response to my FOIA request yielded not a single deed.

¹ The effect of such vernal wetlands is that any theoretical redevelopment of the Property would be required to incorporate a 100-foot buffer along the west border of the Property. This would prevent an extension of Bennett Avenue and play havoc with any road layout for redeveloping the Property, reducing its lot yield and value for redevelopment.

Because the District's response to my FOIA request made clear that the District did not examine the title restrictions affecting the Property, I did. This memorandum summarizes the results of such title examination.

Deed Restrictions on the Property

Our examination of the title documents for the Property revealed that the recorded deeds (the "**Deeds**") essentially restrict the use of the Property to its current uses. The Deeds include a condition that the Property was granted to former District 75 (District 65's predecessor in interest) "**for the use of inhabitants of School District** number seventy-five ((75)." See Cook County Recorded Doc. 4706120 (emphasis added). This is archetypal language for creating a public trust, see, e.g., *Stuart v. City of Easton*, 170 U.S. 383, 392-93 (1898); *Sears v. City of Chicago*, 247 Ill. 204, 214-15 (1910), which means that the Property is held "in trust for the uses and purposes specified and for the benefit of the public." *Paepcke v. Public Bldg. Commission of Chicago*, 46 Ill.2d 330, 336 (1970), citing *Illinois Central Railroad Co. v. Illinois*, 146 U.S. 387 (1892). Moreover, because the public trust encumbering the Property resulted from private deeds and not public designation, neither the District nor even the General Assembly has the "right to divert property given to the public for one use, to a wholly different and inconsistent use." *City of Jacksonville v. Jacksonville Ry. Co.*, 67 Ill. 540, 543 (1873).

In addition, one deed for the Property imposed a further restriction on the west 150 feet of the Property. That restriction reads: "no building or structural improvement shall be located on the west 150 feet [which is] to be reserved, maintained and **used for playground, park and recreational purposes and for no other use or purposes whatsoever.**" Cook County Recorded Doc. 14452722 (emphasis added).

In short, because the District can only use the Property for school and park purposes benefiting the inhabitants of the District,² the Property cannot be sold (or even leased³) to a third-party. Rather, the District's choice in the context of its SDRP process is either to utilize Lincolnwood School or to moth-ball it. Stated differently, the Property can either be used for Lincolnwood School (with the adjacent Perkins Woods) as an asset for students of the District, or it can become an ongoing liability of the District. **There is no other choice because the District Board cannot dispose of the Lincolnwood campus Property.**

Conclusions

Our review of the title history of the Property reveals several conclusions not only about the Property, but also about the SDRP process, including:

1. **There is no productive alternative use of Lincolnwood School.** In light of the title restrictions on the Property, the only alternative uses for the Property are either to continue operating Lincolnwood School, or to moth-ball the Property. Moth-balling the Property will be a cost to the taxpayers and will not benefit any of the District's students. It will also make less accessible to District students the unique (and cost-free) outdoor laboratory that Perkins Woods currently offers to District students.
2. **Disregard of the title restrictions on the Property will result in protracted litigation.** If the District attempts to proceed in disregard of the title restrictions on the Property, the

² Importantly, the deed restrictions are independent of any zoning restrictions. The District cannot through zoning avoid the deed restrictions.

³ Leasing the Lincolnwood campus to a third-party is also prohibited by such public trust. See *Friends of the Parks v. Chicago Park District*, 160 F.Supp.3d 1060, 1068 (N.D. Ill. 2016).

District will face litigation, which will drain District resources and expose the District to potential damages under 42 USC §1983.

3. **The Assessment Report is fundamentally flawed.** The District admits that it “has drawn upon the ... Assessment Report... as a resource in [the SDRP process.” [School Closures FAQ - Evanston-Skokie School District 65](#). Yet, the Assessment Report did not account for the deed restrictions on the Property, which represents a fundamental failure in the Assessment Report and (at least with respect to Lincolnwood) invalidates the data on which the District has relied.
4. **Basic due diligence was lacking with at least some critical aspects of the SDRP process.** Although the SDRP process has no doubt involved a great deal of earnest effort, the failure even to investigate the title history of the Property reveals that the SDRP process has proceeded in ignorance of certain elemental facts. This deficiency should raise serious questions among the District Board members. ***A “data driven” process that is reliant on demonstrably wrong information is an untrustworthy process.***
5. **Relying on false data will undermine trust in the District to the detriment of the students.** Although the District’s SDRP process is currently focused on potential school closures, it is plain from the numbers presented by the District that it cannot right its financial ship simply by closing schools. There will likely be a need to seek the support of the District voters to ensure the financial viability of the District’s schools. ***That support cannot be secured if the District Board utilizes false data*** to make decisions that will affect students throughout the community.