How Is Town Property Sold?

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The sale or "conveyance" – which includes the transfer of any interest in property a town may have – of town-owned real property (land and anything growing, attached, or erected on it) is governed by state law, specifically 24 V.S.A. § 1061.

Under this law, a selectboard has three options with respect to compliance:

1. The selectboard can come to a tentative agreement with the purchaser or lessee, then publicly announce the terms of the proposed conveyance [these would necessarily include the identity of the purchaser or lessee, the proposed price, the location of the property, and any prominent transactional terms] by posting them in three public places in town (one of which is in or near the clerk's office) and publishing in a newspaper of general circulation of the town. The notice and publication must be provided at least 30 days prior to the proposed conveyance. If five percent of the legal voters in town sign a petition objecting to the proposed conveyance, then the selectboard must provide for the proposed conveyance to be voted on at a duly warned special or annual town meeting. The result of the vote is binding.

2. Alternatively, the selectboard may skip the first step and put the vote directly to the people. If the proposed conveyance is approved at a duly warned special or annual town meeting, then the conveyance can go forward.

3. The selectboard can skip both of these steps and convey the property by its own action if the property in question (1) is directly related to the control, maintenance, construction, relocation, or abandonment of town highways; (2) is directly related to the control, maintenance, operation, improvement, or abandonment of a public water, sewer, or electric system; (3) involves real estate used for housing or urban renewal projects (see chapter 113 of Title 24 of the Vermont Statutes); or (4) involves lease lands pursuant to chapter 65, subchapter 1, of Title 24 of the Vermont Statutes.

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None of these options requires a town to put the property out to bid. If a town holds property in a fiduciary capacity, it must handle it in a responsible manner, keeping the interests of the original owner in mind. Examples of land subject to fiduciary constraints are land that was acquired at tax sale or on which the town holds a mortgage. For these reasons, it is always advisable for a selectboard to consult with its town attorney when conducting any real estate transaction.

Finally, if a municipal governance charter has other provisions, they will be binding for that town.

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