

LAND BOARD LUP (LAND USE PERMIT)

The members of Idaho's Land Board have devised a new scheme to circumvent the requirement in the Idaho Constitution that requires the disposal of school endowment lands to be done by holding an auction.

The purpose of the auction is twofold. First, it brings the highest monetary return to the school endowment fund and second, it gives every Idaho Citizen an opportunity to obtain a particular parcel of land, not just a select few.

The Board is offering a new "Land Use Permit" (LUP) for cottage site lessees who choose not to renew their 2014 lease. This LUP is offered for a period not to exceed two years. This is essentially a disposal of school endowment land to a selected party without holding an auction.

Following are Idaho Supreme Court rulings concerning the disposal of school endowment lands. Wasden vs. Idaho Land Board 2012.

"The Attorney General contends that Article IX Sec.8 requires a public auction for any "disposal" of endowment land..." (emphasis added)

" The Idaho Constitution specifies the Board's duties in managing State endowment lands.. Art. IX Sec.8, expressly states endowment lands must be held in trust to secure the maximum long term financial return, subject to "disposal" at public auction."

"...the state shall receive the greatest amount for the lease of school lands...and for this reason competitive bidding is made mandatory."

" In addition to "disposal," the Section variously refers to "sale, "rental," or other dispositions of such lands." (emphasis added)

"The disposal" or "disposition" of public lands obviously includes the sale thereof and just as obviously includes other types of disposal or disposition." (emphasis added)

Black's Law Dictionary defines "disposition" as the act of transferring something to another's care or possession." This would include a Land Use Permit.

Land Use Permit (LUP) allows the current cottage site lessee the exclusive use of endowment land by paying an arbitrary fee set by the Land Board *without holding an auction*. In effect this is a short term lease in which a rightful possessor of real property conveys the right to use and occupy that property in exchange for consideration."

In this case the Land Board has no idea whether or not they are receiving the maximum financial return on endowment land. This is why the Idaho Supreme Court ruled that "...and for this reason competitive bidding is made mandatory." (emphasis added)

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