

base elevation of the air rights conveyed shall be no lower than the federal standard for clearance on interstate highways as of January 1, 1989. The base dimension shall be as shown on Exhibit C and the height dimension of an air rights parcel shall be determined according to plans submitted to the Redevelopment Agency in accordance with Section 5.3 of this Agreement and the LDA and shall be related to the proposed use of the air rights parcel, as follows:

(a) Air Rights Parcels A-2 and A-3, which shall be retained by the Developer upon conveyance of Prince Street to the City, shall be used for construction of a building situated, in part, over the sidewalk situated to the south of the new Prince Street and over a portion of the street itself, as shown on Exhibit A;

(b) Air Rights Parcel A-4, which shall be retained by the Developer, along with all necessary support and footing easements, upon conveyance of the new portion of Gold Street to the City, shall be used for construction of a building over said portion of Gold Street; and

(c) Air Rights Parcel A-5 shall be used for construction of a building over said portion of Washington Avenue and shall be conveyed, for a purchase price of \$1.00, in conjunction with the conveyance of Parcels 9 and 10 as shown on Exhibit C,

407 Board of Education Properties.

The parties acknowledge and agree that the Master Plan shows development of two parcels which are in use as schools, such parcels being Parcel 13 and Parcel 14, as shown on Exhibit C. The parties understand that if the Developer seeks to acquire such parcels, the City and the Developer must comply with the procedure set forth in the Order entered by the United States District Court for the District of Connecticut in Annunziato vs. New Haven Board of Alderman, et al., Civil No, N-82-32, (the "Stipulated Judgment"). The City shall initiate the appropriate procedures promptly upon notice from the Developer of its desire to acquire such parcels. Such notice shall be given no less than eighteen (18) months prior to the conclusion of the Acquisition Period. In the event that the City is permitted to convey either or both parcels to the Developer, but is unable to do so within eighteen (18) months following the notice from the Developer, the period for completion of the Developer's development obligations shall be extended by a period equal to the length of delay in Closing.

408 Private Property and Interests.

The City agrees to use its best reasonable efforts to obtain any amendments to or modifications of the Land Disposition Agreement or other agreements with adjacent property owners in order to permit development of the Proposed Project in accordance with the Master Plan.

FILED  
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U. S. DISTRICT COURT  
NEW HAVEN, CONN.

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

FRANK R. ANNUNZIATO, et al

VS.

NEW HAVEN BOARD OF ALDERMEN, et al

CIVIL NO. N-82-321

ORDER

On June 23, 1982, plaintiffs Annunziato, New Haven Citizens Against Giveaways, et al, filed the above-captioned lawsuit. Hearings on a preliminary injunction were held before this Court on June 28, 1982, and July 7, 1982. On August 24, 1982, this Court issued its Ruling on Plaintiffs' Motion for Preliminary Injunction, as appears of record in this case.

As final judgment in this case, and all parties having agreed, it is hereby

ORDERED:

- (1) A permanent injunction shall issue against defendants:
  - (a) Prohibiting the defendants from selling any public school to a religious institution or for a religious use at a lesser price than the offeror shall in the first instance offer to the city, unless there is supplemental <sup>and corresponding</sup> economic benefit to the city; <sup>c.a. M<sup>2</sup></sup> M<sup>2</sup>
  - (b) Prohibiting the sale of any city-owned school unless such sale proceeds in accordance with the procedures set forth in attached Exhibit A and incorporated herein as part of this Order;

(c) Rescinding the sale of the Roger Sherman School to defendant Gan, Inc., unless defendant Gan, Inc.

fulfills the following conditions:

(1) Within 10 days of the signing of this Order delivers to the City of New Haven a promissory note to pay to the City \$29,999 on or before July 1, 1985; said sale is confirmed upon payment of said note, a copy of which is attached hereto, as Exhibit B, as it has been paid pursuant to this judgment.

(2) Submits to and fulfills all the terms and conditions of the original contract approved by the defendants on March 5, 1982, and attached hereto as Exhibit C and incorporated herein as part of this Order. Provided, that all terms and conditions which have to be fulfilled within certain time frames set forth in the LDA are extended an additional ninety days.

(d) Prohibiting defendant Gan, Inc., from reselling the Roger Sherman School within three years from the date of the signing of this Order.

*except payment of the note, as C.A. 11/17*

(2) All parties agree that this shall be the final and binding Order of the Court in the above-captioned case and no party shall appeal any part of the Court's rulings on the substantive issues.

(3) Plaintiffs and defendants reserve the right to request attorneys fees and costs from the Court.

SO ORDERED,

*Allen B. Lewis*  
UNITED STATES DISTRICT JUDGE

Dated: *Sept 27, 1982*

Approved:

*Martha Stone* *Martin Margulies*

Martha Stone  
Martin Margulies  
Attorneys for Plaintiffs

*Charles G. Albon*

Charles G. Albon, Attorney for Defendants  
New Haven Board of Alderman, City of  
New Haven, DiLieto, New Haven Board of Education

*Roger Frchette*

Roger Frchette

SURPLUS PUBLIC SCHOOL PROCEDURES - EXHIBIT A

Whenever a public school property shall be discontinued as to use by the City of New Haven or is scheduled for discontinuance as to use by the City of New Haven, the following procedures shall be employed for disposition:

1) Upon an offer being made by a prospective purchaser for said property (unless such offer is made in response to a request for proposals issued by the City), the City shall advertise through adequate public notice that such an offer has been made and invite by a request for proposals other interested parties to make offers as to such properties by a date certain. The request for proposals shall state the relative importance of the price and other evaluation factors.

2) An executive agent or agency of the City shall warn that a public meeting on all offers made by that date certain shall be held at which time consideration of the offers shall be made by such the agent or agency; and at which the interested parties and members of the public may express their opinions. Thereafter, discussions may be conducted by the agency or agent with responsible offerors, who submit proposals determined to be reasonably susceptible of being selected for recommendation, for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and before final recommendation by the agent or agency for the purpose of obtaining best and final offers.

3) The agent or agency shall consider all written proposals received in accordance with provision (2) above, from responsible offerors as herein defined. The agent or agency shall recommend only the proposal, if any, that it determines to be most advantageous to the city taking into consideration only price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation, except as provided in provisions (4) and (5) below. A responsible offeror means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance. The agent or agency shall either recommend acceptance of a proposal to the board of aldermen, or shall recommend acceptance of a proposal as revised by the agent or agency, or shall recommend against acceptance of any of the proposals.

4) The criteria to be employed by such agent or agency in recommending for or against the offer of any proposed purchaser shall include the following:

- a. The quantum in dollars of the offer and the other evaluation factors set forth in the request for proposals.
- b. The agency or agent shall make a special effort, when competition exists between non-profit institutions and private corporations for the same property, not to place the non-profit organization in a disadvantageous position due solely to the form and elaborateness of the presentation, but shall rely on the proposal's content, substance and community merit with respect to the evaluation factors set forth in the request for proposals.

5) No public school shall be sold by the board of aldermen to a religious institution or for religious use at a lesser price than the offerer shall in the first instance offer to the city, without supplemental and corresponding economic benefit to the city.

6) The board of aldermen may reject, amend, or accept the recommendations of the said agent or agency but only after a publicly warned meeting of said board or a committee thereof. Acceptance or amendment must be based solely on the criteria set forth in provisions (1) through (5) of these procedures.