

General Questions

What is the process for the divesting of Barrington town land for private or alternative use? How does the public have a vote in the process? Would this be a majority vote of the town council that would need to be approved at an FTM?

For a property that was formerly used by a school:

- (1) The first step is the School Committee abandoning the property for school uses for good cause, such as the closing and consolidation of schools, as provided for in R.I. Gen. Laws §16-2-15.
- (2) The second step, per Sec. 1-3-3 of the Barrington Town Charter, requires the Town Council to enact an ordinance for “sale, lease or change in use” of any Town-owned property.
- (3) The third step requires approval of the sale, or lease of more than two years, of property by a vote of the Financial Town Meeting.

Does R.I. Gen. Laws § 45-53-10 in any way alter the process outlined in the previous question? Does Barrington lose any control or is the process outlined in the previous question changed?

No. R.I. Gen. Laws §45-53-10 only provides for the collection of data regarding abandoned schools and provides incentives to encourage the conversion of abandoned schools into affordable housing. It doesn't do anything to take away the Town's control over how to dispose of its property and the Town would not be forced by state law to convert any property it owns.

Could the town council bypass a FTM vote for the divesting of town land?

No. If the land is sold or leased for more than two years, then FTM approval is required per the Town Charter.

Could the town develop affordable housing as an entity and bypass a town wide vote?

The Town, theoretically, could develop affordable housing on any property it owned whether it be property on which a school was formerly located or any other Town owned property, which would not require FTM approval. But, if the Town were to convert any property it owned into affordable housing, it would almost certainly require the expenditure of Town funds to accomplish that goal, which would require FTM approval to budget those funds.

How does the fact that a school was located at a site affect this process? If a town council wanted to convert other town land (existing public spaces) to affordable housing is there anything different because a site featured a former school?

The only difference is that the School Committee must first abandon the property as a school for good cause. If the School Committee doesn't do so, then the property will remain in the exclusive care and control of the School Committee pursuant to R.I. Gen. Laws § 16-2-15. But, once the School Committee abandons the property as a school, then the Council may dispose of it like any other property pursuant to the process outlined above.

Can the Town Council pass a legally binding vote which would prescribe approved or unapproved uses of decommissioned school property/land at its 11/6 meeting?

The Council could pass a resolution stating what intends to use the property for, but it wouldn't bind future Councils. However, if the property is sold to a third party, with Council and FTM approval, the purchaser can be limited in the allowed uses by restrictions recorded on the deed.

What does Charter say about town/school ownership of property?

Both School Committee controlled property and Town controlled property are all owned by the Town of Barrington, as "school committees . . . are departments of their respective municipalities." E. Providence Sch. Comm. v. Smith, 896 A.2d 49, 53 (R.I. 2006). The distinction between Town controlled property and School Committee controlled property isn't ownership. Instead, pursuant to R.I. Gen. Laws § 16-2-15, "the care and control of all public school buildings and other public school property of the city or town" are vested in the School Committee. Even though the School Committee controls it when used for school purposes, it is still "property of the city or town." Therefore, so long as the property is used for public school purposes, the School Committee makes decisions regarding that Town-owned property, pursuant to its statutory authority

Are there legal thresholds for ownership, such as requiring a structure on the site to establish ownership?

No. The property is always owned by the Town of Barrington. It is just a question of whether the property is in the care, custody, and control of School Committee or the Town Council, which turns on whether it is being used for public school purposes.

In the scenario where the town owns the land, and the schools own the building, but there's no building on the site, who technically owns that land?

The School Department has care, custody, and control over all Town property that is used for school purposes. Once the use for school purposes ends, then the care, custody, and control falls on the Town Council.

Are there precedents or legal frameworks for Memorandums of Agreement (MOAs) between the town and the schools in similar situations, especially those that might remove the property from being considered by the state?

The School Committee and the Town Council could enter an MOA sharing a common understanding about whether the property is or is not going to continue to be used for public school purposes. However, once the property is no longer used for public school purposes, the decision on how to dispose of the former school property would fall to the Council and the FTM, which would not be bound by an MOA with the School Committee, as the School Committee would no longer have any statutory interest in the property once it is no longer used for public school purposes.