

MAINE STATE LEGISLATURE

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Sub-Leasing of Maine School Building Authority Project.

FACTS:

The city officials of Auburn have sought permission of the Maine School Building Authority to sub-lease a portion of the Authority's Project at Edward Little High School. The portion of the land in question has been declared non-essential to any school expansion. If the sub-lease is authorized, the property would be put to private use, thereby earning revenue which could be placed in escrow and used for bond retirement.

QUESTION:

Whether the Maine School Building Authority may legally permit the lessee to sub-lease a portion of the Authority's Project under the given facts?

ANSWER:

Yes, providing the Trustee Bank consents in writing thereto.

REASON:

The statutes relating to public schools and to the Maine School Building Authority (20 M.R.S.A. § 3501 to 3517) contain no prohibition against the reference sub-lease.

The Trust Agreement contains the following proviso relating to leases:

"Section 797. The Authority covenants that, except as provided in Section 505 of this Agreement, it will not sell, lease or otherwise dispose of or encumber any Project or any part thereof and will not create or permit to be created any charge or lien on the rentals derived therefrom."

This provision will be no bar to the reference sub-lease, providing the Trustee Bank properly so informs the Authority in writing. (Any matter involving the use of the income derived from such sub-lease can best be covered in the Trustee Bank's subject written authorization to the Authority.)

The lease agreement existing between the City of Auburn and the Authority seemingly sanctions the creation of sub-leases.

"The City shall not assign this Lease Agreement nor sublet the demised premises except with the written approval of the Authority." (Lease Agreement, paragraph 11.)

A liberal interpretation would admit that the reference sub-lease may legally be drawn. The Legislature has decreed that the provisions of the statutes relating to the Maine School Building Authority should be "liberally construed".

"Sections 3501 to 3517, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof."
28 M.R.S.A. § 3514.

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JWB/eh