

**OFFICE OF THE INSPECTOR GENERAL
CITY OF BALTIMORE**



**Isabel Mercedes Cumming
Inspector General**

**Investigative
Report Synopsis**

OIG Case # 21-0002-I

Issued: December 29, 2020



OFFICE OF THE INSPECTOR GENERAL
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City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202



December 29, 2020

Dear Citizens of Baltimore City,

The Mission of the Office of the Inspector General (OIG) is to promote accountability, efficiency and integrity in City government, as well as to investigate complaints of fraud, financial waste and abuse. At times the lack of transparency in the Baltimore City government could lead to the perception of fraud, financial waste and abuse.

EXECUTIVE SUMMARY

The Office of the Inspector General (OIG) investigated a complaint regarding the use and pending sale of the Langston Hughes Elementary School (LHES) building.

The City of Baltimore (City), the Langston Hughes Business Community & Resource Center Corporation (LHBC), and Youth Educational Services, Inc. (YES), entered into a Right of Entry agreement (ROE) on September 15, 2017. LHBC and YES shared the same President and Chief Executive Officer (CEO), who signed the ROE on behalf of both entities. No other officers or directors are listed on the Articles of Incorporation for either entity, and neither entity has any other employees.

In February 2020, the CEO agreed to the City's proposed sale price of \$1.00 for the LHES building; the sale was not advertised publicly at that time. However, on July 14, 2020, the CEO unexpectedly passed away before the sale could be completed. On November 4, 2020 the sale of the LHES building to YES was executed upon approval by the City's Board of Estimates (BOE).

The OIG found that it is common practice for the City to sell, either publicly or privately, and at the discretion of the Comptroller, surplus building facilities at prices below the assessed value of the facilities and/or underlying property. Such sales are authorized by the City Charter. According to a Department of General Services (DGS) employee, the maintenance and operating costs of such facilities are often a burden on the City's budget and obtaining any amount of money at sale – even \$1.00 – is beneficial.

In this instance, the former Comptroller took the guidance and recommendation of DGS when electing to approve the LHES sale. According to DGS, although the LHES property was recently assessed at \$2,400,000, the property requires \$1,030,000 in necessary maintenance in addition to other annual operating costs.

During the investigation, the OIG did not find that the sale of the LHES building is in violation of the City Charter. However, as explained below, the OIG substantiated the allegation that the CEO violated the terms of the ROE.

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OIG INVESTIGATION

Background

The 41,715 square foot LHES building was built in 1976 on 2.7 acres. It is located within an R-6 zoning¹ area, which limits the use of the building to non-commercial purposes.

On December 17, 2014, the Baltimore City Board of School Commissioners (BCBSC) approved the program closure of the LHES, effective August 30, 2015. On January 5, 2016, the BCBSC approved the transfer of the school facility to the City because the property was no longer needed for educational purposes. In addition to the transfer, the City agreed to assume the building's total outstanding bond debt² service of \$20,741—including principal and interest—which was owed to the State of Maryland. On July 20, 2016, the BOE approved the final transfer of the LHES building from BCBSC to the City.

Use of LHES Building

In February 2017, the CEO submitted an unsolicited proposal to the City for the use of the LHES building by YES as a library and business complex. On August 30, 2017, former Mayor Catherine Pugh (Pugh) responded to the CEO's proposal with multiple concerns about YES' ability to operate the LHES building. First, Pugh believed that using the building as a library was unnecessary because the City had already dedicated \$50,000 in FY 2018 for a feasibility study of a new Enoch Pratt Free Library (EPFL) branch in the nearby Park Heights community. Second, Pugh was concerned by YES's failure to provide adequate information about its budget, financial stability, fundraising and development strategy, insurance, operating partners, and potential co-tenants. Finally, Pugh pointed out that YES had incorrectly stated that it had obtained \$50,000 in City funding and that one of its planned co-tenants was a City agency; neither of those statements was true.

Pugh requested YES to respond to these concerns, but the OIG could not determine if YES ever responded. The letter informed YES that if it could not provide sufficient information about its plan to operate the LHES building, the City reserved the right to issue a Request for Proposal (RFP) in case other parties were interested in using the LHES building.³ On September 15, 2017, the City issued a permanent ROE to YES for the use of the LHES building as a community resource center as shown in Images 1 thru 4 (Exterior Views) and Images 5 thru 8 (Interior Views) below.

¹ An R-6 zone is comprised of detached and semi-detached dwellings, row house developments, and limited low-rise multifamily garden apartment developments.

² Under Md. Code Ann., Debt-Public Section §29 (2005) a bond debt is defined as a bond, note, certificate of indebtedness, or other obligation for the payment of money issued by a public body.

³ The letter also explained that on June 30, 2017, the City had issued a temporary ROE for YES to operate a summer food program out of the LHES building. The OIG requested from DGS and the City's Real Estate office a copy of the temporary ROE issued to YES. However, neither City agency was able to provide a copy.

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Images 1 thru 4: LHES Community Resource Center ~ Exterior Views



Images 5 thru 8: LHES Community Resource Center ~ Interior Views



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LHES Right of Entry Issues

According to the terms of the ROE, YES would not provide keys and/or access to the LHES premises other than to YES staff and directors. The OIG determined that the CEO violated this portion of the ROE on at least one occasion when they allowed other tenants, not affiliated with YES' programs, to operate out of the LHES building. In an email dated April 27, 2020 a representative from the New Park Heights Community Development Corporation (NPH) informed the City that NPH had entered into an agreement with the CEO to utilize space within the LHES building. The NPH representative had paid the CEO in cash for use of the space and had requested from the CEO a formal lease agreement, but none was produced. After several months of making cash payments to the CEO, the NPH representative again confronted the CEO about the lease. The CEO responded that NPH could no longer use the space and had to vacate the premises.

According to the NPH representative, the City should reimburse NPH for the cash payments and the other costs it had incurred while operating out of LHES without a lease. The NPH also claimed that other entities rented space from the CEO during the same period NPH had rented space. However, according to the ROE, the City is not responsible for any actions taken by the CEO and/or YES that are outside of the terms of the ROE. The CEO's authorization for NPH, or any other entity, to rent space inside LHES is outside the terms of the ROE.

Sale of LHES

After being deemed a surplus property by the BCBSC in 2016, the LHES property was transferred to the City and placed under the authority of the DGS for disposition through the City's Space Utilization Committee (SUC). Per the City Charter, the SUC, chaired by the City Comptroller's Real Estate Office (CREO), is responsible for assigning properties to the appropriate City agency for use and/or disposal. Typically, a property slated for sale generates an Expression of Interest (EOI) or an RFP for parties interested in using the property. However, DGS understands that properties in more challenging areas of the City may require a different approach. For example, the City may offer a potential buyer some form of subsidized financial assistance, demolition of the building and clearing of the site, or the option to lease the property. These different approaches may fall outside of the EOI and/or RFP processes.

This was the case with the LHES property. Beginning in February 2020, the sale of the LHES building to YES was initiated without an EOI or RFP process. An employee in the Mayor's Office of Neighborhoods & Economic Development (MONED), proposed in a letter that the LHES building be sold to YES for \$1.00. According to the Maryland State Department of Assessment & Taxation (SDAT), the LHES property is assessed at \$3,082,500⁴. The MONED employee reasoned that LHES currently needs more than a million dollars in repairs, as shown in *Table 1: LHES Repairs Needed*. Additionally, the LHES property has annual operating costs of \$259,527 for utilities and other expenses.⁵

⁴ This assessed value was as of July 2020. As a condition of the pending sale the property was re-assessed at a value of \$2,400,000.

⁵ The City, through DGS, currently pays these costs.

Table 1: LHES Repairs Needed

Repair Items that need to be addressed at Langston Hughes	
Item of Repair	Projected Cost of Repair
Electrical grid	\$ 300,000.00
Roof Replaced	\$ 175,000.00
Replace Boilers and New Thermostat	\$ 300,000.00
Floor Replaced Tile	\$ 100,000.00
Painting	\$ 40,000.00
Gym Air	\$ 35,000.00
Plumbing	\$ 25,000.00
Incidentals	\$ 55,000.00
Projected Total Cost of Repair	\$ 1,030,000.00

On June 22, 2020, the City Council passed Ordinance #20-370, which authorized—in accordance with Article V, §5(b) of the City Charter—the City Comptroller to sell, at either public or private sale, the Mayor and City Council’s interest in the LHES property without reference to an appropriate sale price.

On July 14, 2020, the CEO unexpectedly passed away and the final sale of the LHES building was not completed. On September 22, 2020 the final contract of sale of the LHES property to YES at a cost of \$1.00 was signed, and the BOE approved the sale of the LHES property at its’ November 4, 2020 meeting.

Surplus School Buildings Comparison

To determine whether it was appropriate to sell the LHES building for less than its perceived or actual value, the OIG reviewed the sale of other surplus school buildings of similar in size. The OIG learned that within the last seven years, the City has sold only one other similar surplus school building. This school, Lawrence G. Paquin (Paquin), was built in 1977, is 58,240 sq. ft., and sits on 3.99 acres. As with LHES, Paquin exists within a residential zoned area that limits the use of the building to non-commercial purposes. The Paquin building is currently being used for the Lillie May Carroll Jackson Charter School. It was initially assessed at \$1,160,000. The property had been vacant for several years and had been vandalized to the point that the renovation costs for the City were greater than the fair market value. Therefore, in 2018, the CREO recommended the sale of the property for \$250,000, which was less than the appraised value. The sale took the form of a purchase-money mortgage,⁶ which will be forgiven once the building is renovated and as long as it continues to be used as a community center and election polling place.

⁶ A purchase-money mortgage is a mortgage issued to the borrower by the seller as part of the purchase transaction. Also known as a seller or owner financing, this is usually done in situations where the buyer cannot qualify for a mortgage through traditional lending channels.

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INVESTIGATIVE FINDINGS

The OIG investigation found that the CEO failed to abide by the terms of the ROE by subleasing space in LHES for profit. However, this finding by the OIG is now a moot point due to the passing of the CEO since they were the only person identified as being responsible for engaging in the violations of the terms of the ROE.

The OIG investigation also revealed that the sale of the LHES property is within the City's authority pursuant to the City Charter and does not violate any laws. The law allows that once properties owned by the City are deemed surplus, with no potential use by any City agency, the CREO has the authority to dispose of said properties either at public or private sale, for less than appraised or perceived overall value of the surplus property.

Sincerely,



Isabel Mercedes Cumming, Inspector General
Office of the Inspector General

Cc: Hon. Brandon Scott, Mayor of Baltimore City
Hon. Nick Mosby, President, City Council
Hon. Bill Henry, Baltimore City Comptroller
Honorable Members of the Baltimore City Council
Hon. Dana P. Moore, Acting City Solicitor

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