

STATE BOARD OF EDUCATION

Consent Item

September 7, 2017

SUBJECT: Right of Repurchase; 419 Fraternity Drive, Gainesville, Florida

PROPOSED BOARD ACTION

Decline contractual right of first refusal

AUTHORITY FOR STATE BOARD ACTION

Section 1001.02, Florida Statutes

EXECUTIVE SUMMARY

On August 19, 2003, the State Board of Education conveyed title to a parcel located in Gainesville, Florida, to Alpha Epsilon Chapter of Pi Kappa Phi Fraternity, Inc. (hereinafter "Local Chapter"), which operates as the Gainesville chapter of the national Pi Kappa Phi Fraternity. The parcel is described as follows:

A portion of tract T of the University of Florida Campus as described as O.R. Book 689, page 122-191, together with all the improvements constructed thereon, as herein referred to as Lot 11 of the Fraternity Area in Alachua County, Florida, more particularly described as follows:

From the South West Corner of Section 6, Township 10 South, Range 20 East, run East a difference of 93 feet, thence North a distance of 25 feet, thence North 78 degrees 22 minutes West a distance of 154 feet, thence North 66 degrees 03 minutes West a distance of 158.7 feet, thence North 49 degrees 13 minutes West a distance 232.65 feet, thence North 34 degrees 44 minutes West for a distance of 159.7 feet, thence North 24 degrees 22 minutes West for a distance for 161.7 feet, thence North 13 degrees 54 minutes West for a distance of 165 feet, and thence North 15 degrees 27 minutes East for a distance of 170 feet to the point of beginning.

From this point of beginning, run North 34 degrees 29 feet East for a distance of 168 feet, thence South 35 degrees 28 minutes East for a distance of 231 feet, thence South 32 degrees 43 minutes West for a distance of 86.2 feet, and thence North 56 degrees and 03 minutes West for a distance of 218 feet to the point of beginning. This lot lies in Section 1, Township 10 South, Range 19 East, and is Lot No. 11 as shown on the map or plat of the Fraternity Area surveyed by P.C. McGriff and drawn by E. J. Roberts, dated the 25th day of April, 1950.

Being a portion of the property described in the deed of record in O.R. Book 1058, Page 210, Alachua County, Florida Records.

In making such conveyance, the State Board of Education retained a right to repurchase the property, should Local Chapter ever decide to sell. By the terms of the conveyance, should Local Chapter decide to sell, the property shall first be offered to the State Board of Education, upon six months written notice, at the property's then appraised value.

As for the property itself, the above-described property previously contained a longstanding Pi Kappa Phi fraternity house. However, for safety and economic purposes, the fraternity house has since been razed and the land cleared. The property is currently undeveloped.

Presently, Local Chapter seeks transfer the property to Pi Kappa Phi Properties, Inc. (hereinafter "National Subsidiary"), a Florida Not for Profit Corporation owned and operated by the national Pi Kappa Phi Fraternity. In doing so, Local Chapter intends that National Subsidiary would advance monies and secure a mortgage to construct a new chapter house on the property. The transfer would involve no consideration in exchange for the property, and any transfer deed would contain the same use and sale restrictions contained in the original conveyance.

In accordance with the right to repurchase contained in the original conveyance, a representative of National Subsidiary has notified the State Board of Education of Local Chapter's intent to transfer the property. In doing so, National Subsidiary has requested one of the following determinations:

- Because the transfer to National Subsidiary involves no consideration, the transfer is not a "sale" as contemplated in the original conveyance, and does not trigger the right of first refusal contained therein.
- If the transfer to National Subsidiary does constitute a "sale" as contemplated in the original conveyance, the State Board of Education does not desire to exercise the right of first refusal contained therein.

National Subsidiary has provided documentation confirming that the University of Florida has no objection to the subject property being conveyed as described.

Supporting Documentation Included: [Notice of Intent to Transfer, August 23, 2017](#); [Original Deed, August 19, 2003](#); [Communication from University of Florida, May 23, 2017](#); [Commitment for Title Insurance](#); and [Proposed Deed](#)

Facilitator: Jason D. Borntreger, Assistant General Counsel