

G.G.M

DECISION



THE COMPTROLLER GENERAL OF THE UNITED STATES WASHINGTON, D. C. 20548

[Authority of U.S. Fire Administration to Sell Parcel of Property] 10,466

FILE: B-194482

DATE: JUN 15 1979

MATTER OF: U. S. Fire Administration-Sale of Marjorie Webster Junior College

DIGEST: Pursuant to Federal Fire Prevention and Control Act of 1974, U.S. Fire Administration purchased Marjorie Webster Junior College as site for National Academy for Fire Prevention and Control. As a result of controversy over the site, Congress, in Pub. L. No. 95-422 (October 5, 1978) authorized Administrator to sell Marjorie Webster site and retain proceeds, within limits, for acquisition and improvement of new site. Since Pub. L. No. 95-422 is later and more specific enactment of Congress, it authorizes Administrator to sell Marjorie Webster site without regard to requirements of Federal Property and Administrative Services Act of 1949.

DLG 01816

This decision is in response to a letter from the Administrator, U.S. Fire Administration, Department of Commerce, asking whether the Fire Administration is authorized to sell the former Marjorie Webster Junior College without regard to the requirements of the Federal Property and Administrative Services Act of 1949. For the reasons given below, the question is answered in the affirmative.

DLG 01817

Section 7 of the Federal Fire Prevention and Control Act of 1974 (the Act), 15 U.S.C. § 2206 (1976), directed the establishment of a National Academy for Fire Prevention and Control and authorized the Secretary of Commerce to select a site for its location. Pursuant to this authority, the Secretary selected the former campus of Marjorie Webster Junior College (Campus). On May 4, 1977, Congress appropriated \$2,850,000 for the purchase and renovation of the Campus (Pub. L. No. 95-26, 91 Stat. 61, 91), and on May 26, 1977, the Campus was purchased.

Subsequently, problems developed concerning the use of the Campus as the Academy site. These problems were discussed during hearings on the Second Supplemental Appropriations Act, 1978, Pub. L. No. 95-355 (September 8, 1978), 92 Stat. 523. See Hearings on the Second Supplemental Appropriations Bill for Fiscal Year 1978 before Subcommittees

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of the House Appropriations Committee, 95th Cong., 2d Sess., pt. 2, at 346-363 (1978). Pub. L. No. 95-355 appropriated \$6.15 million for "facilities as authorized by the Act of October 29, 1974." However, the Conference Committee specified that the funds were to be used to acquire and improve a new site, explaining its action as follows:

"The conferees are agreed that a Federal fire service training and educational facility is required to meet the need for improved training of the nation's fire service personnel. However, the conferees believe that a site for such a facility which would permit enhancement of the presently planned training program would better serve this need than the present site. Consequently, the conferees are agreed that the funds provided are to be used for the acquisition and improvement of a new site for a national fire academy. The conferees urge the Department of Commerce to begin an expedited search for a new site immediately. In addition, the conferees urge the appropriate authorizing committees of the House and Senate to consider legislation which would make the proceeds of any sale of the Marjorie Webster Junior College site available for the purchase and improvement of the site selected." H. R. Rep. No. 95-1475, p. 13 (1978).

It was then proposed that the 1974 Act be amended to comply with the wishes of the Conferees expressed above. See 124 Cong. Rec. H10343 (September 21, 1978) and S15878-79 (September 22, 1978). This was accomplished by the enactment of Pub. L. No. 95-422 (October 5, 1978), § 4, 92 Stat. 932, 933, which added a new section 25 to the Act, providing that:

"(a) The Administrator is authorized to sell the former Marjorie Webster Junior College facility, located in Washington, D. C., which was previously purchased as the site for the Academy. In the event of the sale of such facility, the Administrator shall establish within the Administration an Academy Acquisition and Construction Account (hereinafter referred to as the 'Account'), and shall deposit into such Account only the proceeds from the sale of such facility. Following such deposit, the Administrator shall calculate the sum of both the funds deposited into the Account, and the total monies which have been or may be appropriated for the acquisition, construction, and/or rehabilitation of a site for the Academy. If the Administrator finds that the total amount so calculated would exceed \$9,000,000, the Administrator shall deduct from the Account the difference between this combined total and \$9,000,000, and shall deposit such difference into the Treasury as miscellaneous receipts.

"(b) The Administrator is thereafter authorized and directed to retain and apply funds in the Account for the acquisition, construction, and/or rehabilitation of any site which may be selected, together with such other monies as have been or may be appropriated for such purposes, except that the total authorized expenditure for such monies shall not exceed \$9,000,000. Such sums shall remain available until expended." (Emphasis supplied).

The Administrator also calls our attention to section 21(b)(3) of the Act, 15 U.S.C. § 2218(b)(3), which authorizes the Administrator to:

"purchase, lease, or otherwise acquire, own, hold, improve, use, or deal in and with any property (real, personal, or mixed, tangible or intangible), or interest in property, wherever situated; and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property and assets."

Whatever may be the effect of section 21(b) of the Act, the purpose of the new section 25 is clear--to authorize the Administrator to sell the Campus site and to make the proceeds from the sale available for payment of part of the cost of acquiring a new site for the National Academy. Otherwise the proceeds would have had to be deposited in the Treasury as miscellaneous receipts. 31 U.S.C. § 484 (1976).

The concern of the Administrator arises from the apparent conflict between the language of section 25 of the Act and the property use and disposal provisions of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. §§ 471 et seq., as implemented by regulations issued by the General Services Administration (GSA). Specifically, section 602(c) of the 1949 Act, as amended, 40 U.S.C. § 474, makes the authority conferred by the 1949 Act paramount to any authority conferred by any other law and not subject to the provisions of any law inconsistent with the 1949 Act. If the provisions of the 1949 Act relating to utilization of excess real property (40 U.S.C. § 483), as implemented by 41 C.F.R. §§ 101-47.201 et seq., are complied with, the Campus could be transferred (not sold) to another Federal agency and the Administrator reimbursed no more than 50 percent of the fair market value of the site and possibly receive no reimbursement at all. See 41 C.F.R. § 101-47.203-7(f). This would not accomplish the statutory intent of section 25 that the sale price received be used to defray acquisition and construction costs for a new site.

Also, disposal of the property in question as "surplus" under the 1949 act would not accomplish the purpose of section 25, since under section 204 of the 1949 act the proceeds of sale would be for deposit into the Treasury as miscellaneous receipts, with certain exceptions not pertinent here.

There are several well established areas of statutory construction which should be considered. Generally, a statute or provision of a statute should not be construed in a manner which would render it useless, meaningless, or redundant. F.T.C. v. Manager, Retail Credit Co., Miami Branch Office, 515 F.2d 988, 994 (D.C. Cir. 1975); Jackson v. Kelly, 557 F.2d 735, 740 (10th Cir. 1977). Also, when there is a conflict between an earlier statute and a later statute, the provision of the later statute will normally control as the latest expression of congressional intent. 55 Comp. Gen. 117 (1975). Finally, a specific statutory provision prevails over a more general provision. F.T.C., supra at 993.

Applying these principles to the situation at hand, to conclude that any sale of the Campus site by the Administrator is subject to the provisions of the 1949 Act would render section 25(a) of the 1974 Act meaningless. Furthermore, such a conclusion would allow an earlier, more general provision regarding property disposals to prevail over a later, specific provision concerning the Campus. It follows, therefore, that if section 25(a) is to be given effect as the later and more specific act of Congress, it must be construed as authorizing the Administrator to sell the Marjorie Webster site without compliance with the Federal Property and Administrative Services Act.

This conclusion is consistent with the GSA regulations which exempt from the application of its excess and surplus property requirements, transfers and disposals of real property authorized to be made by any "special statute" which directs or requires an executive agency to transfer or convey specifically described real property in accordance with the provisions of that statute. 41 C.F.R. §§ 101-47.201-4 and 101-47.301-3 (1977). Section 25 of the 1974 Act, in our view, meets this exception.

Therefore, notwithstanding 40 U.S.C. § 474, the Administrator is authorized to sell the Campus site under section 25 of the 1974 Act without regard to the requirements of the Federal Property and Administrative Services Act of 1949 and may, within the limits imposed by section 25, retain the proceeds to be used for site acquisition and construction of the National Academy.

R. F. KELLER

Comptroller General
of the United States

[Deputy]