

November 2, 2023

**VIA EMAIL ONLY - [djones@bentonvillek12.org](mailto:djones@bentonvillek12.org)**

Debbie Jones, Ed.D.  
Superintendent, Bentonville Schools  
500 Tiger Boulevard  
Bentonville, AR 72712

**Re: Donation of Land for Affordable Housing**

Dear Dr. Jones:

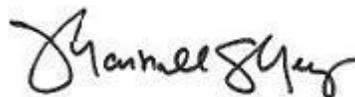
You have asked for my opinion regarding the feasibility of proceeding with a donation of District-owned land for the development of affordable housing within the District's boundaries for use by school staff. To provide this opinion, I have reviewed the opinion authored by Kutak Rock LLP dated June 14, 2023, the opinion authored by the Attorney General dated September 5, 2023, and an email opinion from the Chief Legal Counsel for the Arkansas Department of Education dated November 2, 2023. I also have conducted independent research to assist my understanding of the Kutak, Attorney General and Arkansas Department of Education opinions and made inquiries regarding the source of the funds originally used to purchase the subject land to ensure that the prospective use of the land is not limited based upon the funding source.

Having reviewed all of these documents, and based upon my independent review, I find it reasonable for the District to continue to pursue the possibility of donating land for the development of affordable housing. Short of filing a lawsuit seeking declaratory judgment and ultimately getting the blessing of the Arkansas Supreme Court, the District has taken all steps reasonably necessary to investigate and validate the prospect of the donation. While there is no guarantee that a court would agree with the aforementioned opinions, it is a reasonable risk to take, especially if protections are accorded the District by the developer.

A logical next step in the process would be for the Board to vote in favor of soliciting a donation agreement from the developer, and then assuming proper terms can be reached with the developer, proceed with a formal recommendation to the Board for final consideration and vote.

Please let me know if you need anything further.

Sincerely yours,



Marshall S. Ney

MSN:ccp