

**A GUIDE TO SALES AND OTHER DISPOSITION OF ASSETS
BY NOT-FOR-PROFIT CORPORATIONS**



Office of the NYS Attorney General
Charities Bureau
28 Liberty Street
New York, NY 10005

(212) 416-8401

www.charitiesnys.com

**A GUIDE TO SALES AND OTHER DISPOSITION OF ASSETS
PURSUANT TO NOT-FOR-PROFIT CORPORATION LAW §§ 510, 511 and 511-a
Attorney General
Charities Bureau
www.charitiesnys.com**

Issue date: December 2018

Table of Contents

INTRODUCTION.....3

WHAT TRANSACTIONS ARE COVERED.....4

ROLE OF THE ATTORNEY GENERAL.....5

STATUTORY STANDARD.....6

THE CORPORATION'S PREPARATION FOR THE TRANSACTION.....6

PREPARING TO PETITION FOR APPROVAL OF TRANSACTION.....7

**VERIFIED PETITION FOR ATTORNEY GENERAL OR COURT
APPROVAL.....9**

**REQUIREMENTS FOR THE COURT ORDER OR ATTORNEY GENERAL
APPROVAL.....12**

**REGISTRATION WITH THE ATTORNEY GENERAL'S
CHARITIES BUREAU.....13**

GOVERNMENT AGENCY APPROVALS.....13

CONCLUSION.....13

**APPENDIX A - CHECKLIST FOR PETITION TO THE ATTORNEY GENERAL
OR THE COURT.....14**

**APPENDIX B - SAMPLE PETITION FOR COURT APPROVAL OF SALE OF
ASSETS.....16**

**APPENDIX C - SAMPLE PETITION FOR ATTORNEY GENERAL APPROVAL
OF SALE OF ASSETS.....18**

APPENDIX D - SAMPLE COURT ORDER APPROVING SALE OF ASSETS....20

**APPENDIX E - SAMPLE ATTORNEY GENERAL'S APPROVAL OF
TRANSACTIONS.....21**

**APPENDIX F - OFFICES OF THE ATTORNEY GENERAL AND THE
COUNTIES COVERED BY EACH:.....22**

**A GUIDE TO SALES AND OTHER DISPOSITION OF ASSETS
PURSUANT TO NOT-FOR-PROFIT CORPORATION LAW §§ 510, 511 and 511-a**

INTRODUCTION

The New York State Attorney General’s Charities Bureau has prepared this guidance to assist not-for-profit corporations and the attorneys who represent them when seeking approval of the Attorney General and/or the court for sales and other dispositions of their assets, including real and/or personal property, as well as intangible property such as bonds, stocks or certificates of deposit. Not-for-Profit Corporation Law (“N-PCL”). N-PCL §§ 510, 511 and 511-a. Please consult “Religious Corporations: Sales and other Disposition of Assets,” posted at www.charitiesnys.com, for guidance concerning property transactions by religious corporations.

New York law governing not-for-profit corporations provides certain protections against the inappropriate transfer of assets of such corporations, including internal procedural rules for authorizing transfers. The law also provides for review by the Attorney General and/or by New York State Supreme Court for certain transactions.

Because of the important and unique role and responsibility of not-for-profit corporations in the lives of our citizens and communities, and because of their legal responsibility to safeguard their assets and provide for the interests of their members and beneficiaries, the law requires the court’s or the Attorney General’s approval of certain transactions by such corporations.

The procedures described in this guidance reflect amendments to the N-PCL that were included in the Nonprofit Revitalization Act of 2013 (“the Act” or “NPRA”) and 2015 and 2016 amendments to the Act. The Act amended the N-PCL and sets forth procedures to be followed when transferring or mortgaging property and gives corporations the option of submitting a petition to the Attorney General OR the Supreme Court on notice to the Attorney General for approval of the transaction. As more fully described below, in an application solely to the Attorney General, the Attorney General may determine that court review of a particular application is appropriate. In such cases, the verified petition must be submitted to the court and to the Attorney General, even though court approval is sought.

This guidance is not a substitute for legal advice from an attorney but is intended to provide guidance to not-for-profit corporations that are seeking to sell or otherwise dispose of their assets and to the lawyers who represent them.

The information in this guidance is general in nature. Each transaction is governed by its own facts, and the Attorney General reviews each one on a case-by-case basis. You are encouraged to discuss the proposed transaction in advance with the Attorney General’s Charities Bureau in New York City or Albany or with an Assistant Attorney General in the appropriate Regional Office of the Attorney General to which you should submit your application. A list of the offices of the Attorney General, their

contact information and the New York counties they serve is in Appendix F. If you anticipate that members or employees of the organization, members of the public served by the organization, a public agency with regulatory oversight or contractual relationships with the organization, or members of the local community may have concerns about the proposed transaction, it is prudent to advise them of the planned transaction in order to address their concerns to the extent feasible, consistent with the mission of the organization, and to document these outreach and consultation efforts.

WHAT TRANSACTIONS ARE COVERED

The sale, lease, exchange or other disposition of all or substantially all of the assets¹ of a charitable not-for-profit corporation² requires approval of the Attorney General or the court, with notice to the Attorney General, pursuant to the procedures set forth in the N-PCL. N-PCL §§ 510, 511 and 511-a. The assets may be real and/or personal property, including intangible property such as bonds, stocks or certificates of deposit. N-PCL § 510(a). Transactions by foreign charitable corporations that do business in New York are also covered. N-PCL § 103.

There is no fixed numerical or arithmetic measure of “all or substantially all.” Approval by the Attorney General or the court is required when the transaction involves a large proportion of the corporation’s total assets or when it may affect the ability of the corporation to carry out its purposes, regardless of the percentage of the corporation’s total assets that are the subject of the transaction.

Exceptions to Covered Transactions by Not-for-Corporations

Mortgages are not covered unless a component of the transaction would otherwise be covered by the N-PCL, such as when there is a conveyance or lease of the property to the lender. N-PCL §§ 510 or 511. Non-charitable not-for-profit corporations do not need Attorney General approval for their transactions. Non-charitable transactions are defined at N-PCL § 102(a)(9-a).

ROLE OF THE ATTORNEY GENERAL

The N-PCL requires not-for-profit corporations seeking to sell, exchange or otherwise dispose of all or substantially all of their assets to submit a verified petition for approval of such transaction *either* to the Attorney General or to the court on notice to the Attorney General.

Whether the petitioner decides to seek approval from the Attorney General or the court, it is advisable to make sure that the contract for the sale of the property is

¹ Throughout this guidance, the term "transaction" will also be used to refer to the sale, lease, exchange or other disposition of all or substantially all of a not-for-profit corporation's assets.

² See N-PCL §§ 102(a)(3-a) and (3-b) for the definitions of charitable corporation and charitable purposes. Corporations previously formed as Type B corporations are, effective July 1, 2014, deemed to be charitable corporations. N-PCL § 201(c).

contingent upon the approval of either the Attorney General and/or the Supreme Court. This will protect the corporation since the sale may only take place if it is approved.

When court approval is sought, the N-PCL requires that, upon filing the verified petition with the court, the Attorney General be given a minimum of 15 days' notice before a hearing on the application. N-PCL § 511. **However, the procedure preferred by the Charities Bureau and most courts is submission of a verified petition and proposed order, in draft form with tabs identifying any exhibits, to the Attorney General for review in advance of filing with the court.** This procedure enables the Attorney General to review the papers to ensure that all statutory requirements are met, all necessary documents are included as exhibits, and any concerns of the Attorney General are resolved *before* submission to the court. A sample petition to the court is attached as Appendix B, a checklist of documents needed to request approval of a transaction is attached as Appendix A, and a sample order is attached as Appendix D.

In the case of an application to the court on notice to the Attorney General, if the Attorney General has no objection to the transaction, the Attorney General's Office will provide the petitioner with a "No Objection" endorsement. Such endorsement, typically provided in a letter to the petitioner or stamped on the proposed order approving the transaction, will waive statutory service of the petition since the papers will have already been submitted to and reviewed by the Office of the Attorney General. The signed petition, which must be exactly the same as the final draft petition and include exactly the same exhibits reviewed by the Attorney General, may then be submitted to the court. However, if a hearing or other proceeding is subsequently scheduled, the petitioner must give notice of such proceeding to the Attorney General. In addition, a copy of the order, when signed by the judge, must be submitted to the Attorney General.

If the Attorney General does not approve a petition, if the Attorney General concludes that court review of the petition is appropriate, or if the corporation chooses to do so, the corporation may apply to the Supreme Court for an order approving the transaction, on notice to the Attorney General, in the judicial district where the corporation's principal office is located.

Circumstances in which the Attorney General may determine that court approval, on notice to the Attorney General, rather than administrative approval of the Attorney General is appropriate include:

- The corporation is insolvent and must proceed on notice to creditors pursuant to N-PCL § 511(c).
- The Attorney General has received complaints or objections from members, creditors of the corporation or other interested persons who are entitled to notice pursuant to N-PCL § 511(b).
- The Attorney General has objections to the transaction that have not been resolved after discussion.

- In addition, there may be circumstances when the Attorney General has no objection to a transaction but determines that review by the court is appropriate, including transactions that are unusually complex or will have an impact on the public.

STATUTORY STANDARD

Under the N-PCL's two-prong test, the court and/or the Attorney General must be satisfied that (1) that the consideration and the terms of the transaction are fair and reasonable to the corporation and (2) that the purposes of the corporation or the interests of its members will be promoted by the transaction. N-PCL §§ 511(d) and 511-a(c). These statutory standards and other statutory requirements are discussed more fully below.

THE CORPORATION'S PREPARATION FOR THE TRANSACTION

Approval of the Transaction by the Board

The board of directors or trustees must approve the transaction, and, if there are members entitled to vote (see *Approval of the Transaction by Members* below,) the board must adopt a resolution recommending the transaction. A vote of at least two-thirds of the corporation's entire board is required unless the board has 21 or more directors, in which case a vote of a majority of the entire board is sufficient. A corporation's certificate of incorporation or by-laws may provide for greater quorum or voting requirements.

The resolution must specify the terms and conditions of the proposed transaction, including the anticipated consideration to be received by the corporation, the eventual use of the proceeds of the transaction by the corporation, and a statement as to whether or not dissolution of the corporation is contemplated. N-PCL §§ 510(a)(1) and (2).

If the transaction involves a sale or transfer to a "related party,"³ the corporation must follow the procedures set forth in the N-PCL § 715, including ensuring that the transaction is in the best interest of, and fair and reasonable to, the corporation and that any officer, director or key employee who has an interest in the transaction discloses the facts of that interest.

Where an officer, director, or key employee has such an interest, the officer, director or key employee must not participate in deliberations or votes of the Board in

³ "Related party" means (i) any director, officer or key person of the corporation or any affiliate of the corporation; (ii) any relative of any director, officer or key person of the corporation or any affiliate of the corporation; or (iii) any entity in which any individual described in clauses (i) and (ii) of this subparagraph has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent. N-PCL § 102 (23).

considering or approving the action. In addition, in certain circumstances, the Board must explicitly consider reasonable alternatives to the transaction. The abstention of the officer, director, or key employee, and the consideration of reasonable alternatives to the transaction must be documented in the minutes of the Board. Corporations planning a transaction should review and assess their compliance with the requirements of the N-PCL before entering into the transaction. N-PCL § 715.

Approval of the Transaction by Members

If a corporation has members with voting rights, the membership must approve the transaction. First, the board must adopt a resolution recommending the transaction. The resolution must describe the parties to and the terms and conditions of the proposed transaction, including the consideration to be received by the corporation, an explanation as to how the proceeds will be used and a statement of whether or not dissolution of the corporation is contemplated. The board resolution must then be submitted to a vote at an annual or special meeting of members entitled to vote on it. N-PCL § 510(a)(1).

Each member and each holder of subvention certificates or bonds of the corporation, whether or not entitled to vote, is entitled to notice of the meeting. The members may approve the proposed transaction according to the terms of the board resolution, or authorize the board to modify the terms and conditions of the proposed transaction, by a two-thirds vote of the members present at the meeting, if the number of affirmative votes is at least equal to the quorum. N-PCL §§ 510(a)(1) and 613.

The quorum for a membership meeting is a majority of the members, unless the corporation's certificate of incorporation or by-laws provides for a greater or lesser quorum requirement. If the certificate of incorporation or by-laws provide for a lesser quorum, the quorum may not be less than the number entitled to cast one hundred votes or one-tenth of the total number of votes entitled to be cast, whichever is less. N-PCL § 608(a) and (b) and 615.

Voting by proxy is permitted for members of not-for-profit corporations, if the by-laws or certificate of incorporation permits proxy voting. N-PCL § 609.

PREPARING TO PETITION FOR APPROVAL OF A TRANSACTION

Fair and Reasonable Consideration: Appraisals

In preparing to petition for approval of a transaction, the corporation must determine that the proposed consideration is fair and reasonable. To do so, the corporation must secure an independent appraisal of the property that is the subject of the transaction. Although the statute does not explicitly require an appraisal, court decisions have established that fair market value can best be determined by means of an appraisal, and the court and the Attorney General will generally reject the petition if it is not supported by an appraisal. A licensed appraiser who is completely independent of both buyer and seller must do the appraisal. A real estate agent or broker involved in the sale

of the property may not do the appraisal. A real estate agent or broker “fair market assessment” of a property is NOT the same as an appraisal.

If the asset is real property, the appraisal, which should be done no more than 12 months before the date of the contract, should be based on at least three comparable sales, unless a different valuation method is more appropriate. If the transaction is not an arm’s length transaction (i.e., if it involves a sale or transfer to a director, officer, employee or other person with some connection to the corporation), the Attorney General may require two appraisals. If the proposed transaction is for the development of real property, the appraisal should be based on full FAR (floor area ratio) and evaluate any unused development rights (sometimes called “air rights”).

Fair and Reasonable Consideration: Non-cash Consideration

Any non-cash consideration to be received by the corporation in the transaction needs confirmation of value. Such confirmation may be by submission of a third party valuation or, in some instances, acceptable evidence of costs associated with the building and delivery of in-kind consideration such as a new facility. Non-cash consideration may also include, but is not limited to, anticipated future payments based on a partnership or joint venture interest. The value of any future payments, including ground lease payments, should be analyzed showing the net present value using an appropriate discount rate. Please note that anticipated future payments resulting from a joint venture or partnership arrangement are considered speculative and should not form the basis of a seller’s fair and reasonable consideration analysis.

Fair and Reasonable Consideration: Security

If the corporation is entering into a development transaction in which the purchaser or a third party plans to build and deliver real property back to the seller, adequate security and assurances need to be evidenced in the documentation. Such security and assurances can take the form of escrow arrangements, guaranties, letters of credit, performance bonds, construction timetables with default provisions and adequate remedies, as well as appropriate provision for conducting the corporation’s activities during construction.

Option Contracts

Option contracts require Attorney General or court approval at the time the option is exercised. The Charities Bureau discourages the use of option or other contingent contracts, especially if they may be exercised over a long term.

Use of Proceeds of a Transaction

The use of the proceeds must be consistent with the corporation’s purposes. Proceeds cannot be used for the personal benefit of a director, officer, employee, member or other interested party.

If the property being sold is a not-for-profit corporation's main premises and, as of the date of the sale, the corporation has not yet entered into a contract to purchase or lease new premises, the Attorney General will require, as a condition of approval, that the sale proceeds be placed in escrow to ensure that funds will be available to obtain new premises so that the corporation can continue to carry out its corporate purposes.

VERIFIED PETITION FOR ATTORNEY GENERAL OR COURT APPROVAL

The N-PCL requires that charitable not-for-profit corporations seeking to sell, lease, exchange or otherwise dispose of all or substantially all of their assets must seek approval of the Attorney General or the Supreme Court. N-PCL § 510(a)(3). A request for approval of such a transaction must be in the form of a verified petition to the Attorney General or to the Court.

Verified Petition to the Attorney General or the Court

A verified petition to the Attorney General or to the court must include the following information:

- The name of the corporation as it appears on its certificate of incorporation or an amendment. N-PCL § 511(a)(1). A copy of the certificate of incorporation and all amendments, and a certified copy of the corporation's by-laws must be attached as exhibits.
- The address of the corporation's principal location.
- The section of the law under which the corporation was incorporated. N-PCL § 511(a)(1).
- The names of the corporation's directors and principal officers, and their home addresses. N-PCL § 511(a)(2).
- A description of the corporation's activities. N-PCL § 511(a)(3).
- A description of the property that is the subject of the transaction. N-PCL § 511(a)(4). For sales, a copy of the deed must be attached as an exhibit. Include a statement as to whether the deed contains restrictions.
- A copy of the contract or lease must be attached as an exhibit. If the contract has been assigned or will be assigned prior to closing, the assignment agreement must also be attached as an exhibit.
- A statement of the fair value of the property. N-PCL § 511(a)(4). A copy of the appraisal must be attached as an exhibit.

- A statement of the amount of the corporation's debts and liabilities and how they are secured. N-PCL § 511(a)(4). In addition, a copy of the corporation's most recent annual financial report or audited financial statements must be attached as an exhibit. If the corporation does not have annual financial reports, it should prepare a current schedule, certified by its Treasurer, of all assets, liabilities, income and expenses of the corporation and attach it as an exhibit. In certain circumstances, the Attorney General may decide that financial statements certified by an independent accountant are required. If the Petition is brought before the end of the fiscal year, then a financial report to date should be included.
- The consideration to be received by the corporation. N-PCL § 511(a)(5). If the consideration is less than the appraised value of the property, include a documented explanation.
- A description of the proposed use of the consideration. N-PCL § 511(a)(5). If the corporation is purchasing or leasing new premises, a copy of the contract or lease must be attached as an exhibit. Documentation to support the payment of debts, expenses or other use of proceeds must be attached as an exhibit (evidence of debt, invoices and a closing statement.)
- A statement as to whether dissolution of the corporation is contemplated. N-PCL § 511(a)(5).
- A statement that the consideration and the terms of the transaction are fair and reasonable to the corporation and that the purposes of the corporation, or the interests of its members, will be promoted by the transaction, and a statement of the reasons for that determination. N-PCL § 511(a)(6).
- A statement that the transaction was recommended or authorized by a vote of the directors in accordance with law, at a meeting duly called and held. N-PCL § 511(a)(7). The statement must also include the total number of directors, the number of the directors present at the meeting, the vote pro and con, and what constitutes a quorum. A copy of the board resolution, certified by the secretary, must be attached as an exhibit. If any board members have voted against the transaction, provide a brief explanation of the basis for such votes.
- If consent of members of the corporation is required by law, a statement that such consent was given, in accordance with law, at a meeting of the members duly called and held. N-PCL § 511(a)(8). The total number of members, the number of members present at the meeting, the vote pro and con, and the number that constitutes a quorum must be included. A copy of the membership resolution, certified by the secretary, must be attached as an exhibit. If any members have voted against the transaction, provide a brief explanation of the basis for such votes.

- A statement of any unusual or extraordinary circumstances of the transaction that will assist in the Attorney General’s and/or court’s review.
- A statement that the transaction is arms-length and none of the directors, officers, key employees or members of the corporation or their relatives will receive a direct or indirect financial benefit as a result of the transaction or commitments for distribution of proceeds. If any exceptions to the prior statement are necessary, include a statement of how the related party arrangement was approved by the corporation, including but not limited to, compliance with N-PCL § 715, and exhibits evidencing such approval.
- A statement as to whether or not an application to the Attorney General or the court for similar approval was made previously, and, if so, the determination made concerning the application.
- If the application for approval is made to the Attorney General, a statement that the corporation is not insolvent and will not become insolvent as a result of the transaction. N-PCL § 511-a(b).
- If the application for approval is made to the Attorney General, a statement as to whether any persons or entities have raised, or have a reasonable basis to raise, objections to the transaction, including a statement setting forth the names and addresses of such persons, the nature of their interest, and a description of their objections. N-PCL § 511-a(b).
- A statement of the relief requested (approval to sell real property, approval of lease, etc.). N-PCL § 511(a)(9).

Venue

If the application for approval of the transaction is made to the court, the verified petition must be submitted to the Supreme Court of the judicial district or County Court of the county where the corporation has its office or principal place of carrying out the purposes for which it was formed, even if the property to be sold is located elsewhere. N-PCL §§ 510(a)(3) and 511(a).

If the application for approval of the transaction is to the Attorney General, the verified petition must be submitted to the office of the Attorney General’s Charities Bureau in New York City or Albany or to the appropriate Regional Office of the Attorney General that handles such applications in the county where the corporation’s principal address is located. A list of the offices of the Attorney General, the New York counties they serve and their contact information is in Appendix F.

Notice to Interested Persons

The court in its discretion may direct that notice of the application be given to any interested person, such as a member, officer or creditor of the corporation. N-PCL § 511(b). The notice must specify the time and place, fixed by the court, for a hearing upon the application. Any person interested, whether or not formally notified, may appear at the hearing and show cause why the application should not be granted.

In certain circumstances, the Attorney General may ask the court to give notice to interested parties (including tenants or other occupants of the premises) and/or hold an evidentiary hearing. For example, if there is a membership dispute, a dispute as to who constitutes a duly authorized board or a question about the adequacy of the consideration, the Attorney General may ask the court to hold an evidentiary hearing to resolve the dispute.

Notice to Creditors

If the corporation is insolvent or if its assets are insufficient to liquidate its debts and liabilities in full, all creditors of the corporation must be served with a notice of the time and place of the hearing. N-PCL 511(c). In such circumstances, notice to creditors is required by statute, and the petition must be approved by the court on notice to the Attorney General.

REQUIREMENTS FOR THE COURT ORDER OR ATTORNEY GENERAL APPROVAL

If the petition requests court approval, a copy of the proposed order should be submitted to the Attorney General with the verified petition. The order should set forth the terms of the transaction and the consideration. For sales, the sale price, the name of the purchaser and the address of the property must be included. For leases, the amount of rent, the term of the lease, the name of the lessee and the address of the property must be included.

The order must also set forth how the corporation will use the proceeds to be received by the corporation. N-PCL § 511(d). If all or part of the proceeds is to be placed in escrow, this must be stated in the order. Funds placed in escrow may only be released by further order of the court on notice to the Attorney General.

In addition, the Attorney General requires that the order contain the following: a statement that a copy of the signed court order shall be served on the Attorney General, and that the Attorney General shall receive written notice that the transaction has been completed (i.e., upon closing), if the transaction has been abandoned, or if it is still pending 90 days after court approval.

If the verified petition requests approval of the Attorney General, a copy of the proposed Attorney General Approval should be submitted to the Attorney General with

the petition. The Attorney General Approval should include all of the information described above that is required to be included in a proposed order.

REGISTRATION WITH THE ATTORNEY GENERAL'S CHARITIES BUREAU

If the corporation is required to register with the Attorney General pursuant to Executive Law Article 7-A or Estates, Powers and Trusts Law § 8-1.4, the Attorney General will check to ensure that the corporation is registered and that its annual financial reports are up to date before completing the review of the transaction. If the corporation is not registered, or if its reports are delinquent, it will have to register and file all required annual financial reports before the Attorney General's review can be completed. If the purchaser is required to register, its registration and reports must also be current before the Attorney General's review can be completed. Note that certain corporations, such as religious corporations, are exempt from registration.

NOTE – Effective November 1, 2018, registration with the Charities Bureau must be done online. The instructions and the portal for registration are posted on the Charities Bureau's website, www.charitiesnys.com.

GOVERNMENT AGENCY APPROVALS

If other government agency approvals are required for the proposed transaction (i.e., NYS Department of Health, NYS Public Health and Health Planning Council, NYS Education Department, US Department of Housing and Urban Development, etc.), the Attorney General will require that such approvals be obtained before the Attorney General review is completed. A copy of each government agency approval should be attached as an exhibit to the petition.

CONCLUSION

If you have any questions about the information contained in this booklet or about the procedures for obtaining Attorney General review and Court approval of a transaction, you may contact the Attorney General's Charities Bureau in New York City or Albany or any of the Attorney General's regional offices for assistance. A list of regional offices and their contact information is included in Appendix F.

Appendix A - Checklist for Petitions for Approval of Property Transactions

Verified Petition to the Attorney General or the Court

- ___ Petition
- ___ Verification of Petition

Attachments to Verified Petition

- ___ Copy of the corporation's Certificate of Incorporation and all amendments
- ___ Copy of the corporation's by-laws or constitution and all amendments
- ___ Copy of the deed to any real property that is the subject of the transaction
- ___ Copy of the contract, lease or other disposition
- ___ If the contract has been or will be assigned, a copy of the assignment agreement
- ___ If the corporation seeks to use the proceeds to purchase or lease new premises, a copy of the contract or lease
- ___ If the corporation intends to use any of the proceeds to pay existing commitments or debts, including closing costs, copies of the evidence of the commitments or debts (invoices, executed notes, etc.) and proposed closing statement.
- ___ Copy of the appraisal
- ___ Copy of the corporation's most recent financial statement and, if not reflected in the financial statement, a schedule of existing debts and liabilities (amount, owned to whom, if overdue, if secured).
- ___ Copy of the resolution of the board, certified by the corporation's secretary, authorizing or adopting or recommending the key terms of the proposed transaction and use of proceeds and stating the total number of directors present at the meeting, the number of votes for and against the resolution and the number of board members constituting a quorum.
- ___ A copy of the resolution of the members of the corporation, certified by the corporation's secretary, approving the key terms of the transaction and the use of the proceeds and stating the total number of members, the number of members present at the meeting, the number of votes for and against the resolution and the number of members constituting a quorum.

- ___ If approval of any government agencies is required, copies of such approvals
- **Approval of the Attorney General or Order of the Court**
- ___ If the Court's approval is sought, a proposed Order (see Appendix D)
- ___ If the Attorney General's approval is sought, a proposed Attorney General Approval (see Appendix E)

Appendix B - Sample Petition for Court Approval of Sale of Assets

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X

In the Matter of the Application of :
(NAME OF CORPORATION)

VERIFIED PETITION

For Approval to (type of transaction) :
pursuant to Sections 510 and 511 of the
Not-for-Profit Corporation Law

Index No.

-----X

TO: THE SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

Petitioner, (name of corporation) by (name and title of officer) of the corporation for its
Verified Petition herein respectfully alleges:

TEXT OF THE PETITION (See Appendix A)

WHEREFORE, petitioner requests that the Court approve the (type of transaction) by
(Name of Corporation), a not-for-profit corporation, pursuant to the Not-for-Profit
Corporation Law Sections 510 and 511.

IN WITNESS WHEREFORE, the corporation has caused this Petition to be executed
this ___ day of (Month), 20___ by

(Name of Officer and Title)

Name of Attorney
Address of Attorney
Telephone Number of Attorney
Email Address of Attorney

**Include the verification set forth on page 17.
Verification

Appendix C - Sample Petition for Attorney General Approval of Sale of Assets

ATTORNEY GENERAL OF THE STATE OF NEW YORK
COUNTY OF _____

-----X
In the Matter of the Application of :
(NAME OF CORPORATION) VERIFIED PETITION
For Approval to (type of transaction) :
Pursuant to Sections 510 and 511-a of the :
Not-for-Profit Corporation Law :
-----X

TO: OFFICE OF THE ATTORNEY GENERAL

(Street Address)

(City/Town), New York _____
(Zip Code)

Petitioner, (name of corporation) by (name and title of officer) of the corporation for its
Verified Petition herein respectfully alleges:

TEXT OF THE PETITION (See Appendix A)

WHEREFORE, petitioner requests that the Attorney General approve the (type of
transaction) by (Name of Corporation), a not-for-profit corporation, pursuant to the Not-
for-Profit Corporation Law Sections 510 and 511-a.

IN WITNESS WHEREFORE, the corporation has caused this Petition to be executed
this ___ day of (Month), 20___ by

(Name of Officer and Title)

Name of Attorney
Address of Attorney
Telephone Number of Attorney
Email Address of Attorney

**Include the verification set forth on page 19.

APPENDIX D - Sample Court Order Approving Sale of Assets

At the Supreme Court of
the State of New York,
held in and for the
the County of _____
on the __ day of (Month), 20__.

P R E S E N T:

HON.

Justice.

-----X

In the Matter of the Application of :
(NAME OF CORPORATION)

ORDER

For Approval to (type of transaction) :

Index No.

Pursuant to Sections 510 and 511 of the
Not-for-Profit Corporation Law

-----X

ADD BODY OF ORDER WITH RECITATIONS

AND DECRETAL PARAGRAPHS REGARDING THE TERMS OF THE
TRANSACTION AND THE USE OF PROCEEDS

E N T E R:

Justice of the Supreme Court

Date

APPENDIX E - Sample Attorney General's Approval of Transactions

ATTORNEY GENERAL OF THE STATE OF NEW YORK
 COUNTY OF _____

-----X
 In the Matter of the Application of _____ :
 (NAME OF CORPORATION) : ATTORNEY GENERAL
 for Approval to (type of transaction) : APPROVAL
 Pursuant to Sections 510 and 511-a of the :
 Not-for-Profit Corporation Law :
 -----X

1. By Petition verified on (Date) , (Name of Corporation) applied to the Attorney General pursuant to Sections 510 and 511-a of the Not-for-Profit Corporation Law for approval of an application to (TYPE OF TRANSACTION)

2. The assets that are the subject of the Petition are (DESCRIBE ASSETS)

3. The terms of the transaction and the consideration are as follows:

Note - For sales, include the sale price, the purchaser and the address of the property. For leases, include the amount of rent, the term of the lease, the lessee and the address of the property. For mortgages, include the amount of the loan, the interest rate, the length of the mortgage and the name of the lender.

4. The proceeds will be used for the following purposes:

Note - If all or part of the proceeds is to be placed in escrow, this should be set forth. Funds in escrow may only be released by further approval of the Attorney General.

5. Based on a review of the Petition and the exhibits thereto (and the additional documents and information requested by the Attorney General), and the verification of (Name of Certifier) that (Name of the Corporation) has complied with the provisions of the Not-for-Profit Corporation Law applicable to the sale or other disposition of all or substantially all of its assets, and neither the Petitioner or any third party having raised with the Attorney General any objections to the proposed transaction, the transaction is approved.

6. Petitioner shall provide written notice to the Attorney General that the transaction has been completed, if it has been abandoned, or if it is still pending 90 days after approval.

Attorney General of the State of New York

By: _____
 Assistant Attorney General

Date: _____

Appendix F - Offices of the Attorney General and the counties covered by each:

ALBANY - New York State Attorney General
Charities Bureau
The Capitol
Albany, NY 12224-0341
518-776-2160

Counties: Albany, Columbia, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington (note: Sullivan and Ulster for trusts and estates matters only)

BINGHAMTON

New York State Attorney General
Binghamton Regional Office
44 Hawley Street, 17th Floor
Binghamton, NY 13901-4433
607-721-8771

Counties: Broome, Chemung, Chenango, Delaware, Otsego, Schuyler, Tioga and Tompkins

BUFFALO

New York State Attorney General
Buffalo Regional Office
Main Place Tower - Suite 300A
Buffalo, NY 14202
716-853-8400

Counties: Allegheny, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming

NASSAU (not for trusts & estates matters)

New York State Attorney General
Nassau Regional Office
200 Old Country Road, Suite 240
Mineola, NY 11501-4241
516-248-3302

Counties: Nassau (note: trusts and estates matters are handled by NYC)

NEW YORK CITY

New York State Attorney General
Charities Bureau
Transactions Section
28 Liberty Street – 19th Floor
New York, NY 10005
212-416-8401

Counties: Bronx, Kings, New York, Queens and Richmond

(note: NYC also handles Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester – trusts and estates matters)

PLATTSBURGH

New York State Attorney General
Plattsburgh Regional Office
70 Clinton Street - Suite 700
Plattsburgh, NY 12901-2818
518-562-3288

Counties: Clinton, Essex and Franklin

POUGHKEEPSIE (not for trusts & estates matters)

New York State Attorney General
Poughkeepsie Regional Office
One Civic Center Plaza - Suite 401
Poughkeepsie, NY 12601-3157
845-485-3900

Counties: Dutchess, Orange, Sullivan and Ulster (note: Dutchess and Orange County trusts and estates matters are handled by NYC; Sullivan and Ulster County trusts and estates matters are handled by Albany)

ROCHESTER

New York State Attorney General
Rochester Regional Office
144 Exchange Boulevard
Rochester, NY 14614-2176
716-546-7430

Counties: Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates

SUFFOLK (not for trusts & estates matters)

New York State Attorney General
Suffolk Regional Office
300 Motor Parkway
Hauppauge, NY 11788-5127
631-231-2424

Counties: Suffolk (trusts & estates matters - NYC)

SYRACUSE

New York State Attorney General
Syracuse Regional Office
615 Erie Blvd. West, Suite 102
Syracuse, NY 13204
315-448-4800

Counties: Cayuga, Cortland, Madison, Onondaga and Oswego

UTICA

New York State Attorney General
Utica Regional Office
207 Genesee Street, Room 508
Utica, NY 13501-2812
315-793-2225

Counties: Herkimer and Oneida

WATERTOWN

New York State Attorney General
Watertown Regional Office
Dulles State Office Building
317 Washington Street
Watertown, NY 13601-3744
315-785-2444

Counties: Jefferson, Lewis and St. Lawrence

WESTCHESTER (not for trusts & estates matters)

New York State Attorney General
Westchester Regional Office
44 South Broadway
White Plains, NY 10601
914-422-8755

Counties: Putnam, Rockland and Westchester (note: trusts and estates matters are handled by NYC)