

# City of Detroit


## CITY COUNCIL

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TO: The Honorable Detroit City Council

FROM: David Whitaker   
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DATE: March 30, 2010

RE: **APPOINTMENT OF THE DETROIT PUBLIC SCHOOLS  
REPRESENTATIVE TO THE MILLER SCHOOL HISTORIC  
DESIGNATION ADVISORY BOARD**

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**Question:** Whether Robert Bobb, Emergency Financial Manager for the Detroit Public Schools, or Theresa Gueyser, Superintendent for the Detroit Public Schools should represent the Detroit Public Schools as an ad hoc member of the Historic Designation Advisory Board for the designation of Miller School as an official historic site?

**Answer:** In the absence of legislative or judicial authority specifically designating the emergency financial manager as the owner of Detroit Board of Education property or as the proper designate for determining the historic character of a building, the Superintendent of Detroit Public Schools or her designate, should be the ad hoc member on the Historic Designation Advisory Board.

**Analysis:**  
To make the determination that an area in the City of Detroit is "historic," a Historic Designation Advisory Board must be convened. The Board is made up of city residents with a variety of talents and experiences that compliment the process of making an informed decision regarding the historic designation of a building or area. *City Code 25-2-35.*

In addition to the standing Board, the Detroit City Code, Sec 25-2-36 provides: *"Two (2) ad hoc members shall be appointed to the historic designation advisory board to represent each proposed historic district under consideration. Ad hoc members shall have voting privileges only on matters concerning the area they represent. Ad hoc members shall be property owners, residents or other persons having a demonstrated special affiliation with the area under consideration. When only a single resource constitutes the proposed historic district, (as in the current matter-the old Miller high School facility) at least one (1) of the ad hoc members shall be an owner, or part owner of the resource. An owner or part owner so appointed may designate a*

*person to represent the owner or part owner on the board. Ad hoc members must be residents of the city except in a case where no resident is available to represent the ownership interest as required herein, in which case a nonresident may serve. The ad hoc members shall be appointed within twenty-one (21) days from the date of city council action authorizing the advisory board to conduct a study of the proposed district.”*(Code 1964, § 28A-1-4; Ord. No. 15-04, § 1, 4-21-04)

The current area being considered for historic designation, Miller School, is located at Gratiot and St. Aubin. It is a Detroit Public School, owned by the Detroit Board of Education. As the owner is the School Board, the designee for the Historic Advisory Board has traditionally been the superintendent, (the Nellie Leland School in Lafayette Park, the Frank Beard School on Waterman and the former James McMillan School on West End). Currently the superintendent is Theresa Gueyser. However, because Governor Granholm has appointed Robert Bobb as Emergency Financial Manager for the Detroit Public Schools, the determination of who is the proper person to serve as the ad hoc member of the Historic Designation Advisory Board has been brought into question.

Robert Bobb’s authority is derived from Mich. Act 72 of 1990, MCL 141.1201 *et seq.*, the Local Government Fiscal Responsibility Act. Included in his duties is the handling of the disposition of land under certain circumstances, as Sec. 141.1241 provides; *“(1) Upon appointment...an emergency financial manager shall immediately assume control over all fiscal matters of, and make all fiscal decisions for, the school district for which he or she is appointed. (2) In implementing this article and performing his or her function under this article, an emergency financial manager may take 1 or more of the following actions...(s) Sell or otherwise use the assets of the school to meet past or current obligations, provided the use of the assets for this purpose does not impair the education of the pupils of the district.” (t) Exercise the authority and responsibilities affecting the financial condition of the school district that are prescribed by law to the school board and superintendent of the school district.”* While this authority does give him the power to oversee all financial matters, including the sale of a school owned building under limited circumstances, it does not expressly give him unfettered jurisdiction to sit as an “owner” of the property when it is not being sold or closed to meet fiscal obligations.

While the powers of the emergency financial manager are broad, in the absence of specific authority designating the emergency financial manager as the owner of the property, it would appear that the Board’s normal designate, the superintendent, would be the proper selection as the ad hoc member of the Historic Designation Advisory Board, as long as the appointment does not effect the financial condition of the school district.<sup>1</sup> There has been no representation to RAD that this is the case in the Miller School matter.

If your Honorable Body has any questions or concerns regarding this matter, RAD will be happy to provide further research and analysis upon request.

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<sup>1</sup> The designation of the facility as a historic site could in some situations have a fiscal impact on the value of the property. The emergency financial manager could assert that this gives him authority to be the ad hoc designate of the Historic Designation Advisory Board as the outcome could impact his ability to sell the facility. While this is a stretch from the express language of the statute, it is not unprecedented for the emergency financial manager to assert a broad authority over school matters.