estoppel was not intended to convert contract negotiations into an enforceable promise.

We accept the circuit court's findings because they are not clearly erroneous, and we agree with the court's policy decision that justice does not require enforcement of Charly's promise to Bogle. The evidence supports a finding that, when Charly offered to sell the property for $750,000, both he and Bogle understood that they would negotiate the specific terms of the sale, and they did so. The written agreement that resulted was between Charly and McLellan, with Bogle's involvement, agreement, and consultation with counsel. The steps Bogle took that he claims were to his detriment before the written agreement between McLellan and Charly was executed—moving to Madison and attempting to obtain financing—were in furtherance of the anticipated written agreement that did in fact occur. The steps he took after that—public fundraising and the rally—were not in reliance on Charly's promise to him, but on the written agreement between McLellan and Charly. . . . As a policy matter, in these circumstances justice does not require the enforcement of Charly's initial promise to sell the property to Bogle for $750,000. It is fair not to, in effect, revive that initial promise to Bogle when he was involved with and approved of the written agreement that evolved from that.

We next consider the option as the promise potentially affording relief—specifically, Charly's written promise to McLellan that he would not revoke the offer to sell the property on the specified terms to McLellan for 180 days plus an additional ninety days if McLellan chose. We have already concluded that Charly's promise not to revoke the offer was not supported by consideration separate from that for the sale. We agree with the plaintiffs that this failure of consideration does not in itself bar enforcement of the promise under the doctrine of promissory estoppel. In adopting the doctrine in *Hoffman*, the court explained:

> Originally the doctrine of promissory estoppel was invoked as a substitute for consideration rendering a gratuitous promise enforceable as a contract. *In other words, the acts of reliance by the promisee to his detriment provided a substitute for consideration.* . . . However, § 90 of Restatement [First of] Contracts [which the court adopted], does not impose the requirement that the promise giving rise to the cause of action must be so comprehensive in scope as to meet the requirements of an offer that would ripen into a contract if accepted by the promisee.

Hoffman v. Red Owl Stores, Inc., 26 Wis. 2d 683, 697–98 (1965)26 Wis. 2d at 697–98 (citation omitted) (emphasis added). . . .

We turn, then, to the question whether Charly's promise of the option induced McLellan to take any action or forbearance of a definite and substantial character. The circuit court, in the context of its findings on consideration, accepted McLellan's testimony that he did nothing in connection with the project between mailing the option back and receiving notification that the option was being declared void. The plaintiffs point to McLellan's efforts to negotiate the agreement with Charly—his consultation with real estate attorneys, his flying to Madison to meet with Charly, his "work[ing] through several versions of the parties' written agreement," and his signing and having the contract notarized while he was in Europe. However, these efforts—all typical steps in negotiating an agreement—*preceded* Charly's promise, embodied in the option provisions of the written agreement, that he would not revoke the offer to sell on the specified terms for at least 180 days. Based on the circuit court's findings, we conclude McLellan is not entitled to enforcement of the option under the doctrine of promissory estoppel. . . .

CONCLUSION

[W]e affirm the circuit court in part, reverse in part, and remand with instructions to dismiss the complaint.

sufficient in itself to constitute consideration. We [find] that it is not sufficient. . . .

Third, the plaintiffs argue that the evidence of Charly's personal satisfaction at "tweaking" the University constituted separate consideration for the option. The plaintiffs emphasize . . . that this satisfaction was not entirely dependent upon a sale taking place, and thus it constitutes consideration separate from that for the sale. This is so, according to the plaintiffs, because the "tweaking" occurred at least in part when the prospective sale was made public at the rally and because this publicity resulted in a higher offer from the University, which is what Charly wanted.

The [trial] court found that Charly "took personal satisfaction in selling the building to Bogle for use as a primate museum . . . [either] because he was insulted by a previous offer the UW made . . . or because he didn't like . . . the animal research facilities in that location." In concluding this did not constitute consideration, the court reasoned that it was not bargained for: Charly did not request it and there was no requirement in the written agreement between the parties that the property be used for a museum.

[W]e confine our analysis to the benefit the plaintiffs assert Charly obtained independent from the sale—Charly's personal satisfaction at "tweaking" the University through the announcement of the prospective sale and the resulting higher offer from the University. We conclude that neither constitutes consideration for the option because neither was bargained for.

As for the satisfaction Charly derived from "tweaking" the University with the public announcement of the prospective sale, there is no evidence he requested that the option be publicized or that a rally be held. As for the higher offer the University made after the publicity, that offer—to state the obvious—cannot logically be the subject of bargaining between the parties to the option. . . .

Fourth, the plaintiffs contend that their efforts to obtain financing constitute consideration for the option, given the evidence that Charly knew they needed to raise money in order to purchase the property. . . .

Focusing our attention on separate consideration for the option, we, like the circuit court, reject the plaintiffs' argument. The written agreement is silent on financing. There is no evidence that Charly requested that anything be done with respect to financing and the evidence is that McLellan did nothing.

The plaintiffs provide no authority for the proposition that Bogle's efforts to raise money to repay McLellan could constitute consideration for the option Charly gave McLellan simply because Charly knew Bogle was going to do that. [I]n certain circumstances the optionee's efforts to obtain financing may constitute the requisite separate consideration for an option contract, [but there is no support for the notion] that the efforts of a person in Bogle's situation might do so. . . .

In summary, . . . there is no evidence of consideration for the option that is separate from the consideration for the sale. Therefore, the option was not a binding and irrevocable contract and could be withdrawn at any time before it was exercised within the prescribed time period.

III. Promissory Estoppel

The plaintiffs assert that, if the option is unenforceable because of lack of consideration, they are entitled to an order conveying the property based on the doctrine of promissory estoppel. They seek to enforce with this doctrine the oral promise Charly made to Bogle to sell the property to him for $750,000. They contend that, in reliance on this promise, Bogle took various actions of which Charly was aware, which included efforts to find financing, which he was ultimately able to arrange with McLellan, moving to Madison with his wife instead of continuing to look for teaching jobs, public fundraising after the agreement between McLellan and Charly was signed, which cost him approximately $15,000 for the initial mailing, and holding the rally.

[T]he plaintiffs . . . tended to merge the promise Charly made to Bogle with the promise expressed in the option. We view the two promises as separate bases for two distinct theories for relief under the promissory estoppel doctrine. Accordingly, we analyze them separately. . . .

A party is entitled to prevail on a claim of promissory estoppel if (1) the promise is one that the promisor should reasonably expect to induce action or forbearance of a definite and substantial character on the part of the promisee; (2) the promise induced such action or forbearance; and (3) injustice can be avoided only by enforcement of the promise. . . .

In deciding that the doctrine of promissory estoppel did not support enforcement of Charly's promise to Bogle, the court . . . found that Bogle moved to Madison and started fundraising after having only a couple brief conversations with Charly and it was not reasonable to rely on a promise "obtained by walking into a store and having a brief conversation with a stranger about a real estate transaction of three quarters of a million dollars." Thus, the court found, Charly could not reasonably anticipate that his promise would "induce action or [inaction] of a definite and substantial character" on the part of Bogle. The court also found that the evidence did not show that Bogle's move to Madison and fundraising efforts were to his detriment. It further found that, because of Bogle's role in the negotiation of the agreement between McLellan and Charly, Bogle "could not possibly have believed that he still had a valid offer to sell the property to him." Finally, the court found that the promise Charly initially made to Bogle was of a preliminary nature and was never intended as the final agreement; instead, it was the beginning of negotiations for a more formal written agreement, for which Bogle obtained an attorney. The court reasoned that the doctrine of promissory

Roger Charly owned a parcel of land in Madison, Wisconsin, that is situated between the University of Wisconsin's Harlow Primate Psychology Laboratory and the Wisconsin National Primate Research Center. The University indicated an interest in buying the land in 2003 but balked at Charly's one-million-dollar asking price.

In 2004, Rick Bogle, an animal rights activist, met with Charly to discuss purchasing the land. Bogle wanted to house the National Primate Research Center Exhibition Hall on it as a protest against the activities at the two neighboring facilities. Charly indicated he would sell the property to Bogle for $750,000, if Bogle could raise the money.

Bogle accomplished the fundraising through Dr. Richard McLellan. Bogle and McLellan agreed that McLellan would borrow funds to purchase the property and Bogle would make the payments on the loan.

In October 2004, Bogle notified Charly that he had the money. Bogle's attorney drafted an agreement titled "Option to Purchase," which Charly and McLellan signed on May 10, 2005. It indicated that McLellan could purchase the property for $675,000 within 180 days, with an opportunity to extend that option for another 90-day period. The agreement contained detailed provisions on the terms of the sale.

In June 2005, Bogle held a rally at the property and posted a sign reading "Future Home of the National Primate Research Exhibition Hall," which depicted a monkey with device screwed into its skull. Someone from the University apparently noticed the rally and sign, because shortly thereafter a University representative called Charly to express its consternation with the exhibition hall plan and to once again offer to buy the property. Charly maintained his million-dollar purchase price demand from the University.

Around this same time, Charly took the "Option to Purchase" document to a different attorney for evaluation. The attorney concluded that the option was "voidable and void due to lack of consideration," sending a letter to McLellan to that effect and offering to enter into an enforceable option contract with different terms. McLellan declined.

On August 1, Charly received an offer from the University to purchase the property for one million dollars. McLellan, then, attempted to exercise his supposed option by letter dated August 12. The letter was returned to McLellan unopened, and Charly's attorney personally informed McLellan that there was no enforceable option and that Charly would not sell the property to him.

McLellan, Bogle, and the Primate Freedom Protect (an organization formed by Bogle) sued Charly stating theories of breach of contract and promissory estoppel. The trial court found in favor of the plaintiffs on the breach of contract theory, determining that the option was supported by valid consideration. It ordered the remedy of specific performance. The trial court held, in the alternative, that there was no basis for promissory estoppel liability and dismissed the plaintiff's promissory estoppel claims.

Charly appealed the trial court's determination that he breached the contract. The plaintiffs argued that, even if the court determined there was no breach of contract, they were entitled to relief under the promissory estoppel theory.

On appeal, the appellate court first determined that a valid option contract requires consideration that is distinct from the consideration that supports the underlying contract. In this case, that means McLellan had to give something of legal value for which Charly bargained in exchange for the 180-day option that was different from and in addition to the value Charly sought for the sale of the property.

Vergeront, Judge

II. Existence of Separate Consideration for this Option

Charly contends there is no evidence of consideration for the option separate from the consideration for the sale. In particular, he asserts that the only consideration the circuit court found were for the sale, not for the option. The plaintiffs disagree and also assert the court erred in rejecting three additional bases for consideration. We discuss each of the four potential bases for consideration.

The leaseback and repurchase provisions, like all the other terms for the sale of the property, apply only if McLellan exercises the option within the prescribed period of time. If McLellan does not do so, there is no contract for sale and thus no benefit to Charly from these provisions. The plaintiffs argue that [two particular terms in the Option to Purchase] led to Charly's decision to agree to the option. [E]ven if it were these two particular provisions that led Charly to agree to the option, like all the bargained-for terms of the sale that benefit the seller, these two provisions are a benefit to the seller only if the option is timely exercised and a sale occurs. In other words, they are consideration for the sale contract, but not separate consideration for the option contract. . . .

Second, the plaintiffs contend there is evidence of intent to be bound by the option contract and . . . intent to be bound is