

## BPW Advisory No.: 2006-3

*Date:* November 1, 2006

*Subject:* **Leases of State and Real Property  
Managed by the State Highway Administration**

*Effective:* **Immediately**

*Martin O'Malley*  
Governor

*Nancy K. Kopp*  
Treasurer

*Peter Franchot*  
Comptroller

*Sheila McDonald*  
Executive Secretary



**Purpose:** To delegate certain leases of, and clarify procedures for the leasing of, State-owned real property located along State highways and other State Highway Administration managed-properties.

**Authority:** Any real property of the State may be leased for a consideration the Board of Public Works decides is adequate. Section 10-305, State Finance and Procurement Article, Annotated Code of Maryland.

**Previous Directive:** This Advisory is companion to BPW Advisory 2006-2 (adopted October 4, 2006) which pertains to Department of Natural Resources-managed properties. That Advisory superseded *Leasing Policy* (adopted as DGS Agenda Item 28-L [Feb. 24, 1982]).

**Policy:**

- I. **SHA Leasing:** SHA will conduct and supervise the leasing of State real property located along State highways and other SHA-managed real property. In this Advisory, "properties" and "lease" refer to the terms as defined in this paragraph.
- II. **Delegation:** The Board of Public Works delegates to SHA the authority to enter into and execute individual leases that are conducted as follows:
  - A. **Lease Term.** SHA may lease properties on a 30-day renewable basis if the duration of the tenancy does not exceed one year.
  - B. **Leases to Qualified Tenants.** SHA shall offer available properties at market-value rent to qualified prospective tenants selected through an application process. SHA shall give public notice of leasing opportunities through a classified advertisement in a local newspaper.
  - C. **Market-Value Rent.** SHA may lease properties at market-value rent as determined by SHA. SHA will determine market-value rent by using comparable rents from a recognized real estate listing service and other information including the property's age, condition, and amenities. For existing tenancies, SHA may increase rents no more than once during a twelve-month period.

- D. *Competitive Bidding.* SHA may, in writing, solicit competitive bids, to be submitted in writing, for lease of properties if:
1. Lack of comparable rental rates prevents SHA from determining market-value rent;
  2. No qualified prospective tenant agrees to pay the SHA-determined rent; or
  3. The method described in Section B. does not produce qualified prospective tenants for the property.
- E. *Landlocked parcel.* Without going through the competitive bid process, SHA may lease landlocked parcels to an adjoining landowner/tenant for the:
1. Per-acre price (or higher) as established by the competitive high bid process for similar SHA properties in the general area; or
  2. County average price per-acre (or higher) as compiled by the Maryland Department of Agriculture.
- III. *Reporting of Delegated Leases:* Twice a year – by March 1 and September 1, SHA shall submit to the Board of Public Works Executive Secretary a report of all existing delegated leases.
- IV. *Non-Delegated Leases:* SHA must submit to the Board of Public Works for approval on the Department of Transportation Action Agenda any lease that is not specifically delegated in Section II.
- V. *Subleasing Only with Board Approval:* All leases must prohibit the tenant from assigning or subleasing the property without prior approval from the Board of Public Works.
- VI. *Tenants in State Service:* If a tenant is a State employee, agent, servant, or any individual in State service and the purpose of the proposed lease is to permit the tenant to maintain a residence, the lease must be approved by the Secretary of General Services.

*Questions concerning this Advisory may be addressed to:*

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