

21. LEASING POLICY - SOVEREIGN AND SCHOOL LANDS, EXCEPT MINERALS - W.O. 5125.

Following consideration of Calendar Item 17 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION DIRECTS THE EXECUTIVE OFFICER:

1. TO ARRANGE FOR A PROCEEDING AS REQUIRED BY GOVERNMENT CODE SECTION 11420 TO CONSIDER AMENDMENT OF CURRENT RULES AND REGULATIONS IN ORDER TO IMPLEMENT THE RECOMMENDATIONS OUTLINED IN CALENDAR ITEM 17 ATTACHED AND HEREBY BY REFERENCE MADE A PART HEREOF; AND
2. TO DRAFT SUITABLE LEGISLATION WHERE REQUIRED TO IMPLEMENT THE SUGGESTIONS OUTLINED IN CALENDAR ITEM 17 ATTACHED AND HEREBY BY REFERENCE MADE A PART HEREOF, FOR CONSIDERATION BY THE COMMISSION AT A SUBSEQUENT MEETING.

Attachment

Calendar Item 17 (10 pages)

17.

LEASING POLICY - SOVEREIGN AND SCHOOL LANDS, EXCEPT MINERALS - W.O. 5125.

There is presented herein for consideration by the Commission a summary review of nonmineral leasing policies and practices now in effect, with recommended changes.

The State Lands Commission established policies relating to this subject and reviewed and adjusted rental rates on November 18, 1959 (Exhibit "B"). Since that time, the conditions of economic expansion and population growth, as well as emergence of new recreational pursuits, have resulted in an accelerated increase in the use of State land in the following principal categories of occupancy:

1. Commercial enterprises, water-oriented;
2. Industrial wharves, pipes, wires and cables;
3. Private recreational structures; and
4. Public uses for recreation, health, safety and transportation.

Although certain types of leases and permits do not produce a monetary return to the State, either because of statutory requirements or because of accruing public use and benefit, a large number do result in a contribution to the general revenues of the State. This contribution will increase if the recommendations contained herein are adopted ultimately.

Review and analysis of current practices and requirements for change are based upon securing a reasonable return to the State for use of its land. This is consonant with commercial practice and provides for administration of the lands held in trust in the best public interest. Two significant changes in existing leasing practices are suggested:

1. Provision for the State to receive a percentage of gross income derived from use of land by certain commercial enterprises.
2. The issuance of long-term leases with provisions for periodic review of the rental.

IT IS RECOMMENDED THAT THE COMMISSION CONSIDER:

Schedule
of rates

1. ADOPTING THE ATTACHED SCHEDULE OF LEASE CLASSIFICATIONS, RATES AND POLICIES, AS SHOWN ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, WHICH SHALL SUPERSEDE ANY SCHEDULE FOR THESE PURPOSES ESTABLISHED HERETOFORE.

Rate of
return

2. APPROVING THE CONTINUED USE OF THE BASIC 6% RATE OF RETURN TO BE APPLIED TO LAND VALUE IN COMPUTING RENTALS, WHERE APPROPRIATE, WHICH WILL MAINTAIN RENTALS CURRENT UNDER THE REVERSED PROGRAM RECOMMENDED HEREIN IN ACCORD WITH LAND ECONOMICS.

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Percentage
leasing

3. ADOPTING A POLICY TO REQUIRE THAT ALL PROFIT-ORIENTED LEASES (CLASSES A AND C AS SHOWN ON EXHIBIT "A") SHALL PROVIDE FOR STATE TO RECEIVE A SPECIFIED PERCENTAGE OF GROSS INCOME DERIVED ANNUALLY FROM USE OF LEASED PREMISES WHENEVER SUCH PERCENTAGE AMOUNT EXCEEDS THE ANNUAL RENT THAT WOULD OTHERWISE ACCRUE BY APPLICATION OF 6% RATE OF RETURN TO THE LAND VALUE. THE PERCENTAGE TO BE USED PURSUANT TO THIS POLICY SHALL BE DERIVED FROM A RANGE OF RATES COVERING THE VARIOUS TRADING AND SERVICE FUNCTIONS TO BE ESTABLISHED BY SUPPLEMENTAL RESOLUTION PRIOR TO THE EFFECTIVE DATE HEREOF.

Review of
rental at
five-year
intervals

4. ADOPTING A POLICY TO REQUIRE THAT ALL LEASES, EASEMENTS AND PERMITS ISSUED FOR TERMS EXCEEDING TEN YEARS SHALL PROVIDE FOR THE STATE TO RESERVE THE RIGHT TO REVIEW THE CONSIDERATION AT FIVE-YEAR INTERVALS AND TO ESTABLISH A NEW RENTAL IF, IN THE COMMISSION'S JUDGMENT, SUCH ACTION IS DEEMED TO BE REASONABLE AND APPROPRIATE; PROVIDED THAT SUCH REVIEW SHALL BE AT NO EXPENSE TO THE LESSEE.

Leasing to
littoral or
riparian
owners

5. CONTINUING IN EFFECT THE COMMISSION'S CURRENT POLICY OF LEASING TIDE AND SUBMERGED LANDS TO THE LITTORAL OWNER OR TO THE OWNER OF APPROPRIATE PERMIT, LICENSE OR EASEMENT FROM SUCH LITTORAL OWNER OR TO PUBLIC BODIES OF THE STATE; SUBJECT TO THE PROVISIONS OF RECOMMENDATION NO. 6.

Leases not
subject to
littoral owner
interest

6. RESERVING HEREAFTER THE RIGHT TO LEASE TO THE BEST QUALIFIED APPLICANT, IN ITS JUDGMENT AND DISCRETION, THE AREAS OF UNGRANTED SOVEREIGN LAND WITHIN THE FOLLOWING CATEGORIES: ISLANDS, SHOALS, BERMS, ARTIFICIALLY FILLED, DRY OR MARSH LANDS AND WATER AREAS ADJACENT THERETO.

Last year's
rental

7. RESCINDING THE CURRENT REQUIREMENT THAT THE LAST YEAR OF ANNUAL RENTAL BE PAID IN ADVANCE.

Rent-free
permits

8. AUTHORIZING INTRODUCTION OF LEGISLATION TO REPEAL THAT PART OF SECTION 6503 OF THE PUBLIC RESOURCES CODE WHICH PERMITS RENT-FREE OCCUPANCY OF SOVEREIGN LAND BY PRIVATE RECREATIONAL PIERS.

Payment of
rent by public
agencies

9. ADOPTING THE POLICY THAT A PUBLIC AGENCY OR POLITICAL SUBDIVISION SHALL PAY NORMAL MONETARY CONSIDERATION FOR THE USE OF SOVEREIGN LAND IF THE PROPOSED USE IS PROFIT-ORIENTED.

Payment of
rent by
telephone
companies

10. AUTHORIZING THE INTRODUCTION OF LEGISLATION TO AMEND SECTION 7901 OF THE PUBLIC UTILITIES CODE TO REQUIRE PAYMENT OF NORMAL MONETARY CONSIDERATION FOR PLACEMENT OF TELEPHONE OR OTHER COMMUNICATIONS FACILITIES IN, UPON OR ACROSS SOVEREIGN LANDS.

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- Payment of rent by State Department of Public Works 11. AUTHORIZING THE INTRODUCTION OF LEGISLATION TO REPEAL SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE IN ORDER THAT A MONETARY CONSIDERATION MAY BE CHARGED FOR THE USE OF SOVEREIGN LANDS AS RIGHTS-OF-WAY, FOR THE PROTECTION OF ANY STATE HIGHWAY, OR AS A SOURCE OF MATERIALS FOR THEIR CONSTRUCTION, MAINTENANCE OR IMPROVEMENT.
- Lease by invitational bid or offer - highest and best use 12. ESTABLISHING A POLICY THAT ANY LEASE OF STATE LAND OF THE TYPE DESCRIBED IN RECOMMENDATION NO. 6 ABOVE SHALL REQUIRE DEVELOPEMENT AND UTILIZATION TO MAXIMUM ECONOMIC POTENTIAL, THIS TO INCLUDE AUTHORITY TO ADVERTISE AND INVITE BIDS WHERE PRACTICABLE.
- Administrative charge to accompany all applications 13. AUTHORIZING THE INTRODUCTION OF LEGISLATION TO AMEND SECTIONS 6502 AND 7706 OF THE PUBLIC RESOURCES CODE AS NECESSARY TO PROVIDE FOR AN INCREASE IN THE FILING FEE FROM \$5 TO \$25, WHICH AMOUNT SHALL ACCOMPANY ALL FORMS OF APPLICATIONS.
- Interim administrative charge 14. ADOPTING A POLICY WHICH ESTABLISHES IMMEDIATELY A NONREFUNDABLE ADMINISTRATIVE CHARGE OF \$20 TO ACCOMPANY ALL APPLICATIONS, INCLUDING PURCHASE APPLICATIONS, EXCEPT AS MAY BE PROHIBITED BY LAW; PROVIDED, THAT SUCH CHARGE SHALL BE EXCLUSIVE OF THE \$5 FILING FEE REQUIRED BY SECTIONS 6502 AND 7706 OF THE PUBLIC RESOURCES CODE AND, PROVIDED FURTHER, THAT THIS CHARGE SHALL REMAIN IN EFFECT ONLY UNTIL THE LEGISLATION IS ADOPTED AS PROPOSED IN ITEM NO. 13 ABOVE.
- State to absorb certain expenses 15. ADOPTING A POLICY TO PROVIDE FOR THE STATE TO ABSORB ALL EXPENSES, EXCLUSIVE OF THE ADMINISTRATIVE CHARGE AND FILING FEE AS SHOWN ON EXHIBIT "A", INCURRED IN CONNECTION WITH THE PROCESSING AND ISSUANCE OF A LEASE, EASEMENT, PERMIT OR PATENT COVERING STATE-OWNED SOVEREIGN AND CONGRESSIONAL GRANT LAND; PROVIDED, THAT THE SUCCESSFUL PURCHASER WILL BE RESPONSIBLE FOR PAYMENT OF REGULATORY AND STATUTORY PATENT FEES APPLICABLE TO ISSUANCE OF A PATENT.
- Lease to include land areas actually used 16. ADOPTING A POLICY WHICH, IN THE PREPARATION OF DESCRIPTIONS OF PROPERTY TO BE LEASED, ADDS SUCH AREAS ADDITIONAL TO THE DIMENSIONS OF WATER SIDES OF A STRUCTURE AS MAY BE NECESSARY TO ITS USE.
- Projection of upland property lines 17. ADOPTING A POLICY TO PROVIDE FOR DELINEATION OF THE STATE LAND AREA TO BE LEASED TO A LITTORAL OWNER BY PROJECTING HIS PROPERTY LINES WATERWARD NORMAL TO THE STATE BOUNDARY LINE; PROVIDED, THAT PROPERTY LINES PROJECTING FROM AN IRREGULAR SHORE LINE ARE TO BE THE SUBJECT OF NEGOTIATION.
- Performance and surety bonds 18. ADOPTING THE POLICY THAT THE AMOUNT OF A PERFORMANCE AND SURETY BOND SHALL BE SUFFICIENT TO PROTECT STATE'S INTERESTS IN AREAS NOT NORMALLY COVERED BY INSURANCE, INCLUDING, BUT

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NOT LIMITED TO, THE FOLLOWING CONDITIONS AND COVENANTS:
(1) USE OF THE LAND FOR PURPOSE SPECIFIED; (2) PAYMENT OF RENT; (3) UNAUTHORIZED TRANSFER; (4) MAINTENANCE OF STRUCTURES IN SAFE MANNER; (5) COMPLIANCE WITH RULES AND REGULATIONS OF OTHER STATE AGENCIES; AND (6) CLEARANCE OF SITES AS REQUIRED AT EXPIRATION OF LEASE OR PERMIT.

- Subleasing 19. ADOPTING A POLICY ON SUBLEASING TO PROVIDE THAT NO SUBLEASE OCCUPANCY SHALL BE PERMITTED EXCEPT UPON PRIOR WRITTEN APPROVAL OF THE COMMISSION, AND THE AGGREGATE ANNUAL PROCEEDS FROM A SUBLEASE, IN EXCESS OF AN AGREED-UPON RETURN ON IMPROVEMENTS TO THE STATE LAND, SHALL BE DIVIDED EQUALLY BETWEEN STATE AND LESSEE.
- Effective dates 20. ADOPTING THE FOLLOWING POLICIES GOVERNING THE EFFECTIVE DATES OF THESE NEW POLICIES:
- A. APPLICATIONS FOR NEW LEASES AND PERMITS RECEIVED IN FULL COMPLIANCE WITH EXISTING RULES AND REGULATIONS AS TO DATA, FEES AND DEPOSITS PRIOR TO THE EFFECTIVE DATE OF ANY NEW REGULATIONS ADOPTED HEREUNDER ARE TO BE GOVERNED BY REGULATIONS IN EFFECT PRIOR THERETO.
 - B. RENEWALS OF EXISTING LEASES ARE TO CARRY THE RATES IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF ANY NEW REGULATIONS ADOPTED HEREUNDER ONLY IF THE LEASE EXPIRED PRIOR TO THAT DATE AND IF AN APPLICATION FOR SUCH RENEWAL WAS RECEIVED IN FULL COMPLIANCE AS TO DATA, FEES AND DEPOSITS PRIOR THERETO.
 - C. ALL APPLICATIONS NOT WITHIN THE PURVIEW OF A & B ABOVE AND THOSE RECEIVED AFTER THE EFFECTIVE DATE OF ANY NEW REGULATIONS WILL CARRY THE NEW SCHEDULE OF RATES AND TERMS ESTABLISHED HEREIN.

IT IS RECOMMENDED FURTHER THAT THE EXECUTIVE OFFICER BE DIRECTED:

1. TO ARRANGE FOR A PROCEEDING AS REQUIRED BY GOVERNMENT CODE SECTION 11420 TO AMEND THE CURRENT RULES AND REGULATIONS IN ORDER TO IMPLEMENT RECOMMENDATIONS CONTAINED ABOVE;
2. TO DRAFT SUITABLE LEGISLATION WHERE REQUIRED TO IMPLEMENT THE SUGGESTIONS OUTLINED ABOVE FOR CONSIDERATION BY THE COMMISSION AT A SUBSEQUENT MEETING.

Attachments: Exhibits "A" and "B"

EXHIBIT "A"

W.O. 5125 - 8/67

LEASING POLICY - SOVEREIGN AND SCHOOL LANDS, EXCEPT MINERAL

Class	Land Use	Term or Duration	Consideration	Review of Consideration	Minimum or Fixed Rental	Bond	Admin. Charge	Filing Fee
A Commercial Lease	<ol style="list-style-type: none"> 1. Marinas 2. Restaurant, clubhouse 3. Amusements 4. Fishing piers 5. Helicopter decks 6. Service stations 7. Mooring sites, buoys 8. Watercraft rental 9. Water skiing 10. Other income-producing enterprises 	1-49 yrs.	A specified percentage of gross income or 6% of the appraised land value per annum, whichever is greater; or such other consideration which, in the judgment of the Commission, is in the State's best interest.	5-year intervals	\$300 per annum minimum	<ol style="list-style-type: none"> 1. Construction bond may be required 2. Surety 	\$20	\$5
B Industrial Lease or Easement	<ol style="list-style-type: none"> 1. Wharves, piers 2. Stowage sites 3. Dolphins, moorings 4. Islands, man-made 5. Other, industrial lease 	1-49 yrs.	6% of the appraised land value per annum, or such other consideration which, in the judgment of the Commission, is in the State's best interest.	5-year intervals	\$300 per annum minimum	Surety	\$20	\$5

EXHIBIT "A" (CONTD.)

Class	Land Use	Term or Duration	Consideration	Review of Consideration	Minimum or Fixed Rental	Bond	Admin. Charge	Filing Fee
E (Contd.) ↑ Rights of way ↓	6. Power lines	1-49 yrs.	6% of the appraised land value per annum, except where in conflict with Federal law, or such other consideration which, in the judgment of the Commission, is in the State's best interest.	5-year intervals except where in conflict with Federal law	\$20 per annum minimum	May be required		
	7. Pipe lines							
	8. Private bridge or access structure							
	9. Roadways requiring monetary consideration							
	10. Other, rights of way							
	11. Communications covered by Sec. 7901 F.U.C.	Indefinite	Exempt by law.	None	None	None	\$20	\$5
	12. Communications not under Sec. 7901 F.U.C.	1-49 yrs.	6% of the appraised land value per annum, or such other consideration which, in the judgment of the Commission, is in the State's best interest.	5-year intervals	\$300 per annum minimum	May be required	\$20	\$5

EXHIBIT "A" (CONTD.)

Class	Land Use	Term or Duration	Consideration	Review of Consideration	Minimum or Fixed Rental	Bond	Admin. Charge	Filing Fee
C Public Agency Lease	<ol style="list-style-type: none"> 1. Marinas, recreational piers, concessionaires 2. Boating facilities - fee charged to public 3. Other, income producing 	1-4 yrs.	A specified percentage of gross income or 6% of the appraised land value per annum, whichever is greater; or such other consideration which, in the judgment of the Commission, is in the State's best interest.	5-year intervals	\$300 minimum per annum, if consideration is wholly monetary	May be required	\$20	None
D Non-Commercial Lease Inclusive of but not necessarily limited to subdivisions, clubs, associations, organizations not using land to produce direct income, and for dwellings, cabins, arks.	<ol style="list-style-type: none"> 1. Accommodation piers 2. Boathouses 3. Floats 4. Dwellings 5. Cabins 6. Arks 7. Other, same category 	Dwelling, cabin and ark sites - 1-10 yrs. except as provided by Sec. 6505.5 P.R.C. All other 1-5 yrs.	6% of appraised land value per annum.	Nones, except at 5-year intervals for leases under Sec. 6505.5 P.R.C.	Dwellings, cabins, arks - \$75 minimum per annum; all others - \$150 minimum per annum	May be required	\$20	\$5

EXHIBIT "A" (CONT'D.)

Class	Land Use	Term or Duration	Consideration	Review of Consideration	Minimum or Fixed Rental	Bond	Admin. Charge	Filing Fee
E Use Permit	Non-commercial and non-industrial use of A minimum pier, dock or float capable of accommodating only one craft.	1-5 yrs.	Fixed rental per annum based upon area of State land encompassed within rectangle or square enclosing the structure.	None	Sq. Ft. Area To 500 Per Annum Fixed \$75 Over 500 to 1000 \$100 Larger areas to be covered by another appropriate class.	May be required	\$20	\$5
F Grazing Lease	Livestock	1-10 yrs. Governed by Sec. 6505.5 P.R.C.	Rental per annum based upon specific appraisal of the land.	None	\$25 minimum per annum	None	\$20	\$5
Agricultural Lease	1. Seasonal crops 2. Silviculture	1-10 yrs. 1-49 yrs.		5-yr. intervals				
G Public Agency Permit	Inclusive of but not limited to: 1. Bridge, public 2. Roads, public 3. Water lines 4. Outfall lines 5. Sewer lines 6. Recreational structure	1-49 yrs.	Public recreational use, benefit, health or safety	5-yr. intervals	None	May be required	\$20	None

EXHIBIT "A" (CONTD.)

Class	Land Use	Term or Duration	Consideration	Review of Consideration	Minimum or Fixed Rental	Bond	Admin. Charge	Filing Fee								
H Protective Structure Permit	1. Groins 2. Jetties 3. Seawalls 4. Bulkheads 5. Breakwaters 6. Other, similar	1-49 yrs.	Where applicable, annual monetary consideration to be determined by appraisal, based upon public or private benefit.	Where monetary consideration is involved, at 5-year intervals.	None	May be required	\$20 if not a public agency	\$5 if not a public agency								
Private Recreational Pier Permit as authorized by Sec. 6503 P.R.C.	Pier	1-10 yrs.	Exempt by statute	--	None	May be required	\$20	\$5								
J Salvage Permit	Removal of Abandoned personal property	1-5 yrs.	<table border="0"> <tr> <td><u>Salvage Value</u></td> <td><u>State's Share</u></td> </tr> <tr> <td>To \$500</td> <td>None</td> </tr> <tr> <td>Over \$500 to \$25,000</td> <td>25% over \$500</td> </tr> <tr> <td>Over \$25,000</td> <td>Notated minimum 25%</td> </tr> </table>	<u>Salvage Value</u>	<u>State's Share</u>	To \$500	None	Over \$500 to \$25,000	25% over \$500	Over \$25,000	Notated minimum 25%	None	None	May be required	\$20	\$5
<u>Salvage Value</u>	<u>State's Share</u>															
To \$500	None															
Over \$500 to \$25,000	25% over \$500															
Over \$25,000	Notated minimum 25%															

EXHIBIT "B"

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EXISTING LEASING POLICY - SOVEREIGN AND SCHOOL LANDS, EXCEPT MINERAL

<u>Type Lease</u>	<u>Minimum Rental</u>	<u>Rental Rates</u>	<u>Term</u>	<u>Renewals</u>	<u>Method</u>	<u>Initial Deposit</u>	<u>Remarks</u>
Commercial	\$150 yr.	6% of appraised value per year & 10% each 5 years.	1 to 15 years normal- to 49 years special.	1 to 3 at 10 years- not to exceed 49 years total.	By application & appraisal, negotiation	\$100	Liability Ins. when advisable-bond amount required based on removal cost if removal required under lease terms.
Right-of-Way	\$100 total	Same as above	1 to 49 years	None	Same as above	\$100	Except for minimum rental and term, this is same as commercial lease.
Ark Sites and Cabin Sites	\$65 yr.	Same as above	1 to 10 years	None	Same as above	None	
Minor Structures - Recreational, Commercial	\$25 \$50-100	\$25 \$50-100	1 to 5 years	None	Application	None	The \$25 for Rec. and \$50-\$100 for Comm. is total fee.
Grazing, Agricultural, Recreational	\$10 yr.	Negotiation after appraisal	1 to 5 years	1 to 3 at 5 years each	Application & Negotiation	\$25	No change at this time.
Groins, etc.	None	None	Indefinite	None	Application	\$100	Regulated by statutes.
Recreational Fier Permit	None	None	1 to 10 years	None	Application	None	Only charge is \$5 filing fee per Section 6503 of P.R.C.

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