

 PA TURNPIKE COMMISSION POLICY <i>This is a statement of official Pennsylvania Turnpike Policy</i>		NUMBER: 9.01
		APPROVAL DATE: 04-01-2008
POLICY SUBJECT: Land Use	RESPONSIBLE DEPARTMENT: Property Management	EFFECTIVE DATE: 04-16-2008
		REVISED DATE: 06-16-2020

A. PURPOSE:

The purpose of this policy is to outline a procedure for the disposition and utilization of Commission-owned property, including but not limited to real estate, cell towers and oil, gas and mineral rights.

B. SCOPE:

This Policy Letter applies to all requests for the sale, lease, license or other use of Commission-owned real estate, which the Property Management Department has been designated to manage. This policy supersedes all prior Commission land use policies.

C. GENERAL POLICY:

The Commission may transfer property interests when feasible and advisable to do so, provided such actions are in accordance with the procedures enumerated and discussed in Section D below.

D. PROCEDURES:

1. Approval

a. Commission Approval. Formal Commission approval shall be obtained for all initial term transactions resulting in an agreement with a one-time or yearly income to the Commission in excess of \$50,000. Formal approval is also required for leases with terms that exceed ten years and cannot be terminated by the Commission prior to that time.

b. Staff Approval. Transactions of \$20,000 or less may be approved by the Property Management Administrator. Transactions between \$20,001 and \$50,000 may be approved by the Chief Counsel. Agreements governing all such transactions may be prepared and executed by the Property Management Administrator or Chief Counsel with approval as to form and legality by the Legal Department, under blanket authority granted by the Commission. Non-revenue generating agreements, such as general rights-of-entry, cell tower lease amendments and other such non-revenue generating agreements may be prepared, approved and executed by the Property Management Administrator or Chief Counsel with the approval as to form and legality by the Legal Department.

c. If an amendment to an agreement that was previously approved pursuant to D(1)(b) will result in an amended agreement in excess of \$50,000, formal Commission approval shall be

obtained. Thereafter, all amendments to agreements subject to this Policy shall follow the same procedures as outlined in Section D(1)(a) and D(1)(b).

2. Sale of Residential Property

- a. When the Commission authorizes the sale of residential property, the property shall be sold by sealed public bid or proposal after advertisement on the Commission's website and by using any other means necessary as determined by the Property Management Department to generate market interest and maximize sales price. The fair market value for the residential property being sold shall be determined by a certified appraiser from the Commission's approved appraiser pool prior to the public sale.
- b. The property shall be sold to the highest bidder or offeror, provided that the bid or proposal meets or exceeds the fair market value of the property. In the event that the highest bidder or offeror is unable or unwilling to proceed with the sale, the property may be sold to the second highest bidder or offeror and so on, provided that the accepted bid or proposal meets or exceeds the fair market value.
- c. In the event that no acceptable bids or proposals are received, the Commission shall then have the option of one or more of the following:
 - (1) Re-advertising the property for sale by sealed bid or proposal;
 - (2) Placing the property "For Sale by Owner" and allowing the Property Management Department to field offers for a period of time. The Property Management Department would then present the highest offer or proposal to the Commission for approval, if required under Section 1 above; or
 - (3) Listing the property with a licensed real estate broker/agent from the Commission's approved real estate broker/agent pool. The broker/agent will place a sign on the property, show the property, include it in the multi-list, and present offers to the Commission. The Property Management Department will then present the highest offer or proposal to the Commission for approval, if required under Section 1 above. The broker/agent's compensation will be a flat fee or a percentage of the sales price, as such compensation is negotiated with the broker/agent by the Property Management Department. The full amount paid by the buyer to purchase the property shall meet or exceed the fair market value.
- d. Notwithstanding the above, when it is determined to be in the best interests of the Commission, the Commission may list the property with a licensed real estate broker/agent, pursuant to Section 2c(3) above, without first attempting to sell by sealed public bid or proposal.

3. Sale of Commercial Property

- a. Commission-owned commercial property shall only be sold upon formal Commission approval when it is recommended by the Property Management Department because the

property has no commercial value to the Commission; or, because it is necessary to sell the property to limit the Commission's liability and exposure. If the Commission authorizes the sale of commercial property, the property shall be sold by sealed public bid or proposal after advertisement on the Commission's website and by using any other means necessary as determined by the Property Management Department to generate market interest and maximize potential sales price. The fair market value for the commercial property being sold shall be determined by a certified appraiser from the Commission's approved appraiser pool prior to the public sale.

- b. The property shall be sold to the highest bidder or offeror, provided that the bid or proposal meets or exceeds the fair market value of the property. In the event that the highest bidder or offeror is unable or unwilling to proceed with the sale, the property may be sold to the second highest bidder or offeror and so on, provided that the accepted bid or proposal meets or exceeds the fair market value.
- c. In the event that no acceptable bids or proposals are received, the Commission shall then have the option of one or more of the following:
 - (1) Re-advertising the property for sale by sealed bid or proposal;
 - (2) Placing the property "For Sale by Owner" and allowing the Property Management Department to field offers for a period of time. The Property Management Department would then present the highest offer or proposal to the Commission for approval, if required under Section 1 above; or
 - (3) Listing the property with a licensed real estate broker/agent from the Commission's approved real estate broker/agent pool. The broker/agent will place a sign on the property, show the property, include it in the multi-list, and present offers to the Commission. The Property Management Department will then present the highest offer or proposal to the Commission for approval, if required under Section 1 above. The broker/agent's compensation will be a flat fee or a percentage of the sales price, as such compensation is negotiated with the broker/agent by the Property Management Department. The full amount paid by the buyer shall meet or exceed the fair market value.

4. Commercial Ground Leases

- a. When the Property Management Department plans to lease property for commercial or industrial purposes, and termination may not occur in less than three years, it shall request Commission approval to advertise a Request for Proposals (RFP) on the Commission's website and in such other publications or by other such means as the Property Management Department deems advisable to generate market interest and maximize potential lease value. The RFP shall specify that the lease is to be unsubordinated.
- b. Evaluations and recommendations of the proposals received shall be in accordance with then-existing Commission procurement policy and procedure.

- c. The property shall be leased to the highest offeror, whose proposal is determined to be the most advantageous to the Commission; provided, however, that the proposal/offer meets or exceeds the fair market rental value of the property. In the event that the selected offeror is unable or unwilling to proceed with the lease, the property may be leased to the second highest offeror and so on, provided that the accepted proposal/offer meets or exceeds the fair market rental value.
- d. In the event that no acceptable proposals/offers are received, the Commission shall then have the option of one or more of the following:
 - (1) Re-advertising the property for lease by sealed proposal;
 - (2) Placing the property "For Lease by Owner" and allowing the Property Management Department to field offers for a period of time. The Property Management Department would then present the highest proposal/offer to the Commission for approval, if required under Section 1 above; or
 - (3) Listing the property for lease with a licensed real estate broker/agent from the Commission's approved real estate broker/agent pool. The broker/agent will place a sign on the property, show the property, include it in the multi-list, and present offers to the Commission. The Property Management Department will then present the highest offer to the Commission for approval, if required under Section 1 above. The broker/agent's compensation will be a flat fee or a percentage of the sales price, as such compensation is negotiated with the broker/agent by the Property Management Department. The full amount paid by the lessee to lease the property shall meet or exceed the fair market rental value.

5. Communication Leases

The Property Management Department shall work to generate non-toll revenue by leasing available cell tower space and land for new towers, monopoles and/or small cell applications in accordance with Policy Letter 9.02. The role of the Property Management Department shall primarily be to negotiate and prepare such leases, assist with zoning matters, and to identify surplus property for the construction of new towers, monopoles or small cell applications.

6. Timbering

The Property Management Department shall work to identify areas of Commission owned property that may be timbered for profit. Once identified, the Property Management Administrator or Chief Counsel shall request review of the proposed timber area by the Engineering Department, including both the Roadway Site Design Coordinator and the Environmental Manager. Once approved by the Engineering Department, the Property Management Administrator or Chief Counsel may authorize the Commission's consulting forester to solicit bids for the sale of timber. The consulting forester shall recommend the highest bidder to the Property Management Department. The Property Management Department shall seek formal Commission approval of the sale if required by Section 1 above.

The Property Management Administrator or Chief Counsel shall work with and through the Commission's consulting forester to ensure that proper forest management techniques are implemented on Commission property.

7. Agricultural Leases

The Property Management Department shall recommend that the Commission enter into agricultural leases when appropriate, ensuring that conservation plans are followed by lessees.

8. Sale of Remnant Parcels

- a. The Commission owns small remnant parcels that are of insignificant size and limited use. The Property Management Department will work to sell these parcels. This action will save the Commission the time and expense associated with administration and will benefit local municipalities by returning the remnants to the tax rolls.
- b. To sell such remnant parcels, the Property Management Department shall set a market value, notify adjacent property owners and offer the parcel for sale either by sealed bid or offer, or by auction. If the highest bid or proposal meets or exceeds the market value, the remnant parcel may be sold to the highest bidder or offeror.
- c. Notwithstanding Sections 8a and 8b above, if the party or parties from whom the Commission originally acquired a parcel, subsequently identified as a remnant parcel, desire to purchase all or a portion of that remnant from the Commission or if the Commission determines that it is in its best interests to offer the property to an immediate adjacent property owner, the property may be made available to those parties first, provided they are still an adjacent property owner, prior to the Commission offering the remnant to any others. The Property Management Department, at its discretion, shall determine whether or not the remnant should be sold for market value or whether a formal appraisal is required.

9. Non-Commercial Leases

- a. The Property Management Department may negotiate short or long-term leases for ground or dwellings, when it determines that such leases are in the best interests of the Commission, subject to Section 1b above.
- b. All such leases shall include an indemnification of the Commission, and such other protections as are deemed desirable by the Property Management and Legal Departments.

10. Negotiated Sales and Conveyances

In addition to the authority granted elsewhere in this policy, the Property Management Department shall have the authority to negotiate sales or conveyances subject to Commission approval as set forth herein (with or without advertising, at the discretion of the Property Management Department) in the following instances:

- a. Land without access except over adjoining land owned by others, following the procedure established in Section 8b above;
- b. Public utility companies desiring rights-of-way; and
- c. To honor commitments made by the Commission to any Department of the Commonwealth of Pennsylvania.

11. Local Economic Development Agencies

The Property Management Department may also subject to Commission approval as set forth herein negotiate agreements with transportation companies and agencies, local economic development agencies, industrial development agencies, municipalities and related agencies when deemed advisable. The Commission may also work with local governments to develop incentive programs and may negotiate joint-venture development programs with local governments and private developers in connection therewith. Provided however, that all such agreements and programs shall result in the receipt of fair market value by the Commission for any property interests leased or conveyed. For the purposes of this section, the avoidance of liability and the creation of public goodwill may be taken into consideration.

12. Authority to Buy or Lease

The Property Management Department may also assist appropriate Commission departments in locating land or facilities that the Commission may desire to lease or purchase.

13. Deeds

All deeds for the sale of land near the Turnpike shall include a provision that prevents property owners, current and future, from bringing noise abatement complaints against the Commission. The Property Management Department shall also consider other deed restrictions as may be necessary or desirable, including, but not limited to, roadway runoff provisions, billboards and other provisions that may be recommended by the Commission's Engineering or Legal Departments. All deeds, as well as sales agreements, must be executed in accordance with Commission procedure and subject to Legal Department review and approval.

14. New Construction

All requests to purchase or to enter into a long-term lease of property acquired by the Commission as the result of new roadway construction shall be deferred pending completion of the construction in question. Except when the property may be sold or leased in accordance with Commission policies and procedures prior to that time when all affected departments agree that such a conveyance will have no bearing on said or future construction or maintenance or other roadway-related matters.

15. Mineral Rights

When conveying property interests, the Property Management Department shall take the issue of mineral rights into consideration. When feasible, the Property Management Department should recommend that the Commission retain the mineral rights associated with specific parcels.

16. Fair Market Value

The Property Management Department shall not recommend the lease or conveyance of property for less than fair market value compensation to the Commission. For the purposes of this section, the avoidance of liability and the creation of public good will may be taken into consideration.

17. Processing Land Use Requests

- a. Land use requests shall be processed by the Property Management Department. Once the request has been received, the Property Management Department will evaluate and then circulate it internally for review and comment to the following departments: Engineering, Maintenance, Legal, the General Consulting Engineer and other departments that may be affected by the request.
- b. When a staff consensus has been reached, the Property Management Department will request appropriate approvals (pursuant to Section 1 above), notify the requester, and prepare appropriate documentation in accordance with internal Property Management Department and Commission procedures.

E. DEFINITIONS:

Fair Market Value - The price (cash or equivalent) that a buyer could reasonably be expected to pay and a seller could reasonably be expected to accept, if the property were for sale on the open market for a reasonable period of time, both buyer and seller being in possession of all pertinent facts, and neither being under any compulsion to act.

This Policy Letter supersedes all previous Policy Letters on this subject.