



**Buildings & General Services
Property Management Services**
4 Governor Aiken Avenue
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Agency of Administration

REPORT TO JOINT FISCAL COMMITTEE SEPTEMBER 15, 2015 “USE OF STATE OWNED PROPERTY AT LESS THAN FAIR MARKET VALUE”

The State of Vermont has a long history of working with farmers, local municipalities and public service organizations to try and help alleviate some of their operating expenses by allowing usage of State owned property at less than Fair Market Value (FMV).

Throughout the years, the State has absorbed the cost of maintaining these facilities with the notion that it was in the best interest of Vermonters to allow these uses on State owned property at less than FMV.

In the instance of agricultural land, it was felt that the cost of paying to have the land kept open would exceed the amount lost by leasing it at less than FMV. During the past fiscal cycle, Commissioner Obuchowski was made aware that the State had been following this practice in violation of VT Statute:

Title 29 : Public Property And Supplies

Chapter 005 : Department Of Buildings And General Services

§ 165. Space allocation, inventory, and use; leasing property; Commissioner's preapproval required

(h) No State-owned space in any State-owned building, structure, or other real property under the jurisdiction of the Commissioner of Buildings and General Services may be leased, occupied, or licensed for any purpose for less than its fair market value as determined by the prevailing area market prices for comparable space or property, except as follows:

(1) The Commissioner of Buildings and General Services may lease or license State-owned property under his or her jurisdiction for less than prevailing area market prices to municipalities, nonprofit organizations, school districts, or to persons whose proposed activities are determined by the Commissioner to serve a public purpose and when the term of the lease or license is less than three years.

(2) The Commissioner of Buildings and General Services may lease or license State-owned property under his or her jurisdiction for less than prevailing area market prices with the approval of the Joint Fiscal Committee when the term of the lease or license is three years or longer, or when the lease or license requested is a renewal of a lease or license issued pursuant to subdivision (1) of this subsection.



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In response to this situation,

Commissioner Obuchowski directed the Property Management Division of BGS to:

1. Identify and list all properties being leased or licensed at less than FMV.
2. Develop individual plans on a case by case basis to bring all those properties into compliance with the above listed statute as soon as possible.
3. To additionally identify any properties that by virtue of "special circumstances are not subject to the above listed statute.

This list and the accompanying spread sheet were drafted as a result of that directive.

Before continuing, it should be noted that for the purposes of this exercise we have used the local Fee For Space (FFS) Rate as the bench mark for FMV. This was done in an effort to be fair and sensitive to the fiscal concerns of our tenants.

Additionally, the per acre rates used when calculating the FMV for agricultural land were supplied by the Agency of Agriculture from the USDA's nationwide list of agricultural land lease rates.

1. **License #603-** This is a license for 84.3 acres of crop land leased to the Scribner Family in Middlesex. At present they are paying a rate that is \$2,46.00 less than FMV, however their current license include step rate increases that will bring them up to FMV by May 1, 2018.
2. **License #602-** This license is with the Duxbury Community Garden and the State has allowed them to place their community garden on State owned land for the past several years for \$1.00 per year. There is currently no plan in place to bring them up to FMV.
3. **Lease #608-** Between Deer Valley Farms and the State for 200 +/- acres of crop land on the former Weeks School Property in Vergennes and Ferrisburg. This lease has been ongoing for close to twenty years. When it was last written in 2011 the State used data from UVM to set the lease rate, the latest renewal used the USDA data and currently has the lease rate at \$2,600 below FMV, however the lease rate is being incrementally raised to FMV by July 1, 2018.



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4. **License#615**-Mickey Carvelho and the State for 12 acres of sugar bush at the SESCO in Windsor. When it was originally written at FMV, however the rates have not been raised in several years. The rates will be addressed in the next license negotiation.
5. **License #601**- Between the State and George Ashline for 45 acres of Hay land at the SESCO in Windsor. This lease is currently terminated, but we expect to reactivate it next year at FMV.
6. **License #616**- This license was written between the State and Lawes Agricultural Services for 40 +/- acres at the former Brandon Training School. At the time that it was written, the land had been laying fallow for 10-20 year and was in need of major
7. remediation. It was decided that the tenant would bring in equipment and reclaim the land and bring it back into production in exchange for 5 years rent. The figure was arrived upon by multiplying 40x\$44.00 per acre per year.
8. **Lease #367**- Between CUSI and the State, details re: this lease are included in our presentation.
9. **Lease #408**- When this lease was written, the State's intention was to have the Caledonia County Sheriffs up to FMV by July of 2018. However, since it was written, the FFS rate in St Johnsbury has risen considerably and we will not meet that goal until the new lease is written for July 2019.
10. **Lease with the VFW and American Legion**- At 126 State Street in Montpelier. According to Statute originally written in 1948, the State is obliged to lease space to Veterans organizations at \$1.00 per year. See Statute below:

Title 29 : Public Property And Supplies

Chapter 005 : Department Of Buildings And General Services

§ 167. Rental of state property to veterans' organizations

The commissioner of buildings and general services is hereby authorized to lease to national veterans' organizations, with established central offices in this state, the first floor of the Adams house on State Street in the city of Montpelier, or some comparable space in some other building in said city of Montpelier owned by state, federal, county or municipal government or by a private party, except the state capitol, state library, Pavilion state office building and the state office building at 120 State Street. Said lease shall be on a year-to-year basis with the right of renewal thereof by the lessee but with right of the lessor to terminate said lease upon notice of not less than six months to the said lessees. The rent shall be for the nominal sum of \$1.00 per year for each tenant organization. Space allocations to the various organizations shall be made and may be modified from time to time by the commissioner of buildings and general services.



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Interior repairs and alterations shall be at the expense of the respective tenant subject to the approval of and under the supervision of the commissioner of buildings and general services and exterior repairs shall be at the expense of the state and under the supervision of the commissioner of buildings and general services. The expense of light, heat and water as proportionately allocated by the commissioner of buildings and general services shall be paid by the tenant organization into the property management fund established by section 160 of this title, expect that any costs above the proportional costs shall be paid out of the operating funds of the Vermont adjutant general. (Amended 1959, No. 328 (Adj. Sess.), § 16(b); 1987, No. 243 (Adj. Sess.), § 31, eff. June 13, 1988; 1995, No. 148 (Adj. Sess.), § 4(c)(1), eff. May 6, 1996; 1999, No. 1, § 100, eff. March 31, 1999; 1999, No. 148 (Adj. Sess.), § 42, eff. May 24, 2000; 2003, No. 63, § 28.)

11. **Lease with the Vt Arts Council-** This lease is currently \$42,774.00 under FMV and a solution is being negotiated.
12. **DOL Parking lot on Green MT Dr.-** For many years the Capital Plaza Hotel has been using the DOL Parking lot as overflow parking without any written authorization to do so. It is unknown how this arrangement was arrived at or why it has been allowed to continue considering the shortage of parking spaces available to State employees in the Montpelier area.
13. **License #610-** License for a private citizen to park their car on SOV property across the street from their residence on Hopkins St in Montpelier. It is currently at \$260.00 below FMV for an unpaved space but we hope to address that in the next license.
14. **Needleman's Bridal Shop-** Hebard Building, Newport. The State has been leasing the space to Mr. Needleman at less than FMV awaiting the amendment of the Emory Hebard Condominium bylaws. The current status of that amendment is as follows:

Recently signed an extension to the P & S with Mr. Needleman. Cannot close on the property until the Declarations are amended. Have final amended Declarations and awaiting final approval from the Title Insurance company hired by Mr. Needleman. Once that is accomplished, we then can prepare for closing. Preparing for closing will require the preparation of a Certificate of Resale which the Association cannot properly prepare at this time. SOV is working to update



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financials of the Association so that these financial documents, required by closing, will be ready. Timeline: November tentatively.

15. **Lease #488**-This is listed as an atypical lease in that it resulted from the State's desire to allow the City of Rutland to have a chance to operate the Rutland Parking Garage for 3 years in a no-risk situation in hopes that at the end of the 3 years the City would be comfortable with taking over complete ownership of the facility. We are still working on that process.
16. **Lease #1004**-This lease is also atypical in that we are working to transfer ownership of this property to the City of Rutland and hope to have that transfer completed before year's end.
17. **Lease #1004**-This lease is between the USDOL and the State for the Job Corps at the former Weeks School in Vergennes. This lease dates back to the 1980's and is a 20 year lease with annual renewals. When the lease was renewed in 2012, the State essentially doubled the lease rate to the USDOL and instituted a number of new terms and conditions in the new lease. Because this is a one of a kind lease with no comparable anywhere in Vermont, it is difficult to come up with a FMV for the site considering that the USDOL is responsible for all operating expenses as well as all major maintenance costs. We have however tried to put a value on the space, that value is \$4.00 per SF per year. With the \$401,629.17 from FY 2016 rent plus the \$280,000.00 in major maintenance improvements that the USDOL is providing in FY16 we are confident that the USDOL is paying FMV for FY16.

Respectfully,

Allen Palmer
BGS
Property Management Services