

No. 1988-89

AN ACT

HB 212

Authorizing and directing the Department of General Services, with the approval of the Governor and the Department of Health, to sell and convey a tract of land situate in Mount Joy Township, Lancaster County; authorizing the release of Project 500 restrictions imposed on certain land owned by the Borough of Royalton, Dauphin County, in return for the imposition of Project 500 restrictions on certain land owned by the Borough of Royalton; and authorizing the Department of General Services, with the approval of the Department of Environmental Resources, to lease to the City of Philadelphia certain lands subject to certain conditions within the bed of the Delaware River in the 2nd Ward of the City of Philadelphia.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Lancaster County tract.

(a) Conveyance.—The Department of General Services, with the approval of the Governor and the Department of Health, is hereby authorized and directed on behalf of the Commonwealth of Pennsylvania to grant and convey, for a consideration of fair market value as determined by an independent appraisal, to Paul L. and Muriel V. Davis the following tract of land situate in Mount Joy Township, Lancaster County, Pennsylvania, bounded and described as follows:

Beginning at a concreted pipe monument, corner to lands of Paul L. and Muriel V. Davis, lands now or formerly of S. H. Hertzler and lands of the Commonwealth of Pennsylvania, thence by lands of said Davis north 36 degrees 42 minutes 41 seconds east 442.43 feet to a concreted pipe monument; thence by lands of the Commonwealth of Pennsylvania south 68 degrees 46 minutes 46 seconds east 69.59 feet to a point in the west line of Township Road No.310; thence by said west line of said Township Road No.310, the following three courses: (1) south 26 degrees 01 minute 01 second west 79.43 feet to a point; (2) south 41 degrees 03 minutes 06 seconds west 303.92 feet to a point; (3) south 35 degrees 31 minutes 00 seconds west 66.72 feet to a point; thence by lands of the said Commonwealth of Pennsylvania north 65 degrees 40 minutes 19 seconds west 61.63 feet to the point of beginning.

Containing 0.708 acres, more or less, as shown on a survey prepared by Edward Prall, Registered Surveyor, on July 17, 1986.

(b) Easements and conditions.—The conveyance shall be made under and subject to all easements, servitudes and rights of others, including, but not confined to, streets, roadways and rights of any telephone, telegraph, water, electric, sewer, gas or pipeline companies, as well as under and subject to any interest, estates or tenancies vested in third persons, whether or not appearing of record, for any portion of the land or improvements erected thereon.

(c) **Approval.**—The deed of conveyance shall be approved as provided by law and shall be executed by the Secretary of General Services in the name of the Commonwealth of Pennsylvania.

(d) **Costs and fees.**—Costs and fees incidental to this conveyance shall be borne by the grantee.

Section 2. Dauphin County tract.

(a) **Authorization to release restrictions.**—The land described in subsection (b) is hereby released from any restrictions or encumbrances on the title resulting from the provisions of the act of January 19, 1968 (1967 P.L.996, No.443), known as The Land and Water Conservation and Reclamation Act, in exchange for the imposition of The Land and Water Conservation and Reclamation Act provisions on land owned by the Borough of Royalton and described in subsection (c).

(b) **Description of land unrestricted.**—The land to be released from restrictions imposed by The Land and Water Conservation and Reclamation Act is more particularly described as follows:

Beginning at a set re-bar at the northeasterly corner of the intersection of Derry Street, at that point an unimproved street having an ordained width of 50 feet and a proposed cartway of 34 feet, and Donegal Street, at that point an unimproved street having an ordained width of 50 feet and a proposed cartway of 34 feet; thence north 26 degrees 43 minutes 36 seconds west a distance of 140.32 feet to a point at the corner of lands of the Borough of Royalton known as lot 47; thence south 86 degrees 43 minutes 36 seconds east a distance of 263.29 feet to a set re-bar at the northwesterly corner of lands now or formerly of Daniel Dupler; thence south 03 degrees 16 minutes 24 seconds west along said lands of Daniel Dupler a distance of 120.40 feet to a set re-bar at the southwesterly corner of said Dupler lands, said re-bar being also on the northerly line of Derry Street aforesaid; thence north 87 degrees 03 minutes 36 seconds west a distance of 193.13 feet to a set re-bar, the place of beginning.

Being a portion of the premises which Francis J. Wolfgang and Kenneth L. Wolfgang, her husband, by Deed dated December 22, 1978, and recorded in the Office of Recorder of Deeds, Dauphin County, Pennsylvania, in Record Book 2, Page 423, granted and conveyed to the Borough of Royalton, said portion of premises being also known as lots nos. 298, 299, 300 and 301.

(c) **Description of land restricted.**—The land on which The Land and Water Conservation and Reclamation Act restrictions shall be imposed is more particularly described as follows:

Tract 1

Beginning at a steel reinforcing bar set at the intersection of Old Canal Street, now known as Kerr Avenue, and the western required right-of-way line of State Highway Route No.407 (Section 1-A);

Thence from the place of the beginning and along the northern right-of-way line of Kerr Avenue the following five courses and distances:

- (1) north 42 degrees 27 minutes 02 seconds west 23.84 feet to a re-bar;

(2) north 61 degrees 57 minutes 02 seconds west 58.21 feet to a re-bar;
 (3) north 83 degrees 05 minutes 02 seconds west 113.35 feet to a re-bar;
 (4) south 80 degrees 24 minutes 58 seconds west 51.06 feet to a re-bar;
 (5) south 75 degrees 46 minutes 56 seconds west 261.31 feet to a re-bar;
 set on the legal right-of-way line of old L.R.407.

Thence along the required right-of-way line the following two courses and distances:

(1) north 07 degrees 16 minutes 18 seconds east 42.00 feet to a re-bar;
 (2) north 82 degrees 33 minutes 42 seconds west 154.76 feet to a point at the low water mark of Swatara Creek;

Thence along same the following three courses and distances:

(1) north 16 degrees 18 minutes 11 seconds east 269.24 feet;
 (2) north 31 degrees 07 minutes 47 seconds east 167.94 feet;
 (3) north 52 degrees 33 minutes 13 seconds east 327.65 feet to a point on the western required right-of-way line of State Highway Route No.407 (Section 1-A);

Thence along said right-of-way line south 17 degrees 52 minutes 14 seconds east 681.91 feet to a steel reinforcing bar, the place of the beginning.

Being the same premises which the Kiwanis Club of Middletown by Deed dated April 1, 1985, and recorded in the Office of Recorder of Deeds, Dauphin County, Pennsylvania, in Record Book 604-238, granted and conveyed to the Borough of Royalton.

Tract 2

Beginning at a monument on the southerly side of Canal Street; thence south 10 degrees 03 minutes west along the easterly side of a private road, 123.55 feet to a spike; thence south 79 degrees 50 minutes west 100 feet to a spike in the easterly line of lands, now or late, of Margaret Ellen Kerr Beckley; thence north 12 degrees 42 minutes east 97.46 feet to a spike in the southerly line of Canal Street; thence along the southern line of said Canal Street, north 75 degrees 50 minutes east 45.51 feet to a spike; thence still along the southerly line of said Canal Street, south 07 degrees 40 minutes east, 54.50 feet to a monument, the place of beginning.

Being the same premises which Kenneth P. Dudley and Doris M. Dudley, his wife, by Deed dated August 7, 1984, and recorded in the Office of Recorder of Deeds, Dauphin County, Pennsylvania, in Record Book 526-252, granted and conveyed to the Borough of Royalton.

(d) Authorization to impose restrictions.—The following restriction shall be added to the deeds for the land described in subsection (c):

“This land is to be used for municipal park, recreation and open-space purposes as defined in The Land and Water Conservation and Reclamation Act.”

(e) Use of proceeds.—All proceeds from the sale or lease of the land described in subsection (b) shall be utilized by the Borough of Royalton for development of recreation facilities on the land described in subsection (c).

Section 3. Lands in Delaware River.

(a) Purpose.—The Commonwealth of Pennsylvania owns the lands within the bed of the Delaware River, a portion of which lands are located in

the 2nd Ward of the City of Philadelphia, commonly known as Piers #36, #35, #34, #30 and #28 South. The City of Philadelphia desires to eliminate the blight and deterioration which now exist in this area and undertake the redevelopment of various sites within this area for the substantial benefit of the people of the City of Philadelphia and the surrounding regions. The Commonwealth has agreed to assist the City of Philadelphia in the renewal of this area by leasing a portion of the bed of the Delaware River to the City of Philadelphia as hereinafter provided.

(b) Lease.—The Department of General Services, with the concurrence of the Department of Environmental Resources, acting on behalf of the Commonwealth of Pennsylvania, for a consideration of \$1, is hereby authorized to lease to the City of Philadelphia, for an initial term of 99 years (the “Initial Term”), lands within the bed of the Delaware River in the City of Philadelphia, and granting to the City of Philadelphia the right to extend the period for all or any portion of the leased premises for an additional 99 years (the “Renewal Term”) upon notice given no less than ten years prior to the expiration of the initial term. These lands are more particularly described as follows:

Parcel No. 1.

Beginning at a point on the easterly side of Delaware Avenue, variable width, which is also the Bulkhead Line established by the Secretary of War, September 10, 1940, at the distance of 76 feet 7/8 inches from a point formed by the intersection of the northerly side of Catharine Street, 50 feet wide, produced eastwardly and the easterly side of said Delaware Avenue; thence extending along said Delaware Avenue and Bulkhead Line, north 01 degree 05 minutes 56 seconds east, the distance of 307 feet 2 1/8 inches to a point; thence extending south 83 degrees 31 minutes 49 seconds east, the distance of 538 feet 11 5/8 inches to a point on the Pierhead Line established by the Secretary of War, September 10, 1940; thence extending along said Pierhead Line south 00 degrees 46 minutes 33 seconds west, the distance of 357 feet 1 1/2 inches to a point; thence extending north 78 degrees 20 minutes 34 seconds west, the distance of 547 feet 10 3/4 inches to a point on the said easterly side of Delaware Avenue and Bulkhead Line and place of beginning. Being known as Pier #36 South.

Parcel No. 2.

Beginning at a point on the easterly side of Delaware Avenue, variable width, which is also the Bulkhead Line established by the Secretary of War, September 10, 1940, at the distance of 383 feet 3 inches from a point formed by the intersection of the northerly side of Catharine Street, 50 feet wide, produced eastwardly and the easterly side of said Delaware Avenue; thence extending along said Delaware Avenue and Bulkhead Line north 01 degree 05 minutes 56 seconds east, the distance of 345 feet 4 7/8 inches to a point; thence extending south 74 degrees 39 minutes 44 seconds east, the distance of 552 feet 1 1/4 inches to a point on the Pierhead Line established by the Secretary of War, September 10, 1940; thence extending along said Pierhead Line south 00 degrees 46 minutes 33 seconds west, the distance of 260 feet 3/4 inches to a point; thence extending north 83 degrees 31 minutes 49 seconds

west, the distance of 538 feet 11 5/8 inches to a point on the said easterly side of Delaware Avenue and Bulkhead Line and place of beginning. Being known as Pier #34 South and Pier #35 South.

Parcel No. 3.

Beginning at a point on the easterly side of Delaware Avenue, variable width, which is also the Bulkhead Line established by the Secretary of War, September 10, 1940, at the distance of 728 feet 7 7/8 inches from a point formed by the intersection of the northerly side of Catharine Street, 50 feet wide, produced eastwardly and the easterly side of said Delaware Avenue; thence extending along said Delaware Avenue and Bulkhead Line north 01 degree 05 minutes 56 seconds east, the distance of 263 feet 3 7/8 inches to a point; thence extending south 77 degrees 48 minutes 10 seconds east, the distance of 543 feet 7 3/4 inches to a point on the Pierhead Line established by the Secretary of War, September 10, 1940; thence extending along said Pierhead Line south 00 degrees 46 minutes 33 seconds west, the distance of 294 feet 5 3/4 inches to a point; thence extending north 74 degrees 39 minutes 44 seconds west, the distance of 552 feet 1 1/4 inches to a point on the said easterly side of Delaware Avenue and Bulkhead Line and place of beginning. Being known as Pier #30 South.

Parcel No. 4.

Beginning at a point on the easterly side of Delaware Avenue, variable width, which is also the Bulkhead Line established by the Secretary of War, September 10, 1940, at the distance of 991 feet 11 3/4 inches from a point formed by the intersection of the northerly side of Catharine Street, 50 feet wide, produced eastwardly and the easterly side of said Delaware Avenue; thence extending along said Delaware Avenue and Bulkhead Line, north 01 degree 05 minutes 56 seconds east, the distance of 434 feet 3 1/2 inches and crossing the head of a 50-foot wide proposed easement to a point on the north house line of South Street, 50 feet wide, produced eastward; thence extending along the said produced house line of South Street and along the northerly side of said easement, south 78 degrees 57 minutes 59 seconds east, the distance of 539 feet 5/8 inches to a point on the Pierhead Line established by the Secretary of War, September 10, 1940; thence extending along said Pierhead Line south 00 degrees 46 minutes 33 seconds west, the distance of 445 feet 11 3/8 inches to a point; thence extending north 77 degrees 48 minutes 10 seconds west, the distance of 543 feet 7 3/4 inches to a point on the said easterly side of Delaware Avenue and Bulkhead Line and place of beginning. Being known as Pier #28 South.

(c) Approval.—The lease and any other documents hereby contemplated shall be approved by the Attorney General and shall be executed by the Department of General Services, with the approval of the Department of Environmental Resources, in the name of the Commonwealth of Pennsylvania. The lease shall grant the lessee, City of Philadelphia, the right to sublease or permit the sublease of the above-described premises for the purposes of development for residential, office, commercial, condominium, hotel, marina or other uses, and the lease shall specifically include the following conditions:

UNDER AND SUBJECT, nevertheless, to the condition that if the said Lessee, City of Philadelphia, should sublease or permit the sublease of or otherwise transfer the above-described premises during said Initial Term other than to a department or agency or political subdivision of the City or to the Commonwealth of Pennsylvania or a department or agency or political subdivision of the Commonwealth, the net rentals received by the said Lessee, City of Philadelphia, upon such sublease or transfer shall be received, held, and applied as follows:

First, to reimburse said Lessee, City of Philadelphia, for the costs and expenses of said sublease or transfer, including, without limitation, appraisal fees, title insurance charges, marketing costs, attorneys' fees, and other costs and expenses, similar and dissimilar;

Second, to reimburse said Lessee, City of Philadelphia, or any department or agency or political subdivision thereof, for the cost of any improvements now or hereafter erected on the above-described premises, including, without limitation, the cost of any piers, wharves, bulkheading, water and sewer lines and connections, and other improvements, similar or dissimilar, and the fair market value of any rights to develop space over the above-described premises; and

Third, the balance of said net rentals shall be paid fifty percent (50%) to the said Lessor, Commonwealth of Pennsylvania, or its designee or assignee, and fifty percent (50%) to the said Lessee, City of Philadelphia, or its designee or assignee, in consideration of their respective interests in the above-described premises pursuant to said Lease.

AND FURTHER PROVIDED, that if the said Lessee, City of Philadelphia, should sublease or permit the sublease of or otherwise transfer the above-described premises during the said Renewal Term other than to a department or agency or political subdivision of the City or to the Commonwealth of Pennsylvania or a department or agency or political subdivision of the Commonwealth, the City of Philadelphia shall require payment of quarter-annual or other more frequent periodic payments of rent representing the Fair Market Value Rent for that portion of the said lands subleased or otherwise transferred as of the date of the commencement of the Renewal Term, and such Fair Market Value Rent shall be received, held and applied in accordance with subparagraphs First, Second and Third above.

The "Fair Market Value Rent" shall be the rent which a willing tenant would pay to a willing landlord pursuant to an arm's-length transaction for the Lease of that portion of the premises as if it were a parcel improved with roads and utilities, but exclusive of the other improvements constructed thereon, as determined by one Appraiser selected jointly by the City and the Commonwealth, or, if the City and the Commonwealth do not agree on the selection, by three (3) Appraisers selected as follows: one Appraiser shall be selected by the Commonwealth, one Appraiser shall be selected by the City, and one Appraiser shall be selected by the Appraisers selected by the City and the Commonwealth; provided, however, that, if the Appraisers selected by the

City and the Commonwealth are unable to agree upon the third Appraiser, then the third Appraiser shall be selected by the President Judge of the Philadelphia Court of Common Pleas, or his or her successor. The term "Appraiser" shall mean a person who has been engaged in the business of appraising multifamily residential and commercial real estate within the area of the City of Philadelphia for a period of at least five (5) years prior to the date of his or her designation, and shall be then a member of the American Institute of Real Estate Appraisers, or any successor thereto then in existence, or any other body or organization similar in nature to the American Institute of Real Estate Appraisers if the American Institute of Real Estate Appraisers is not then in existence. Each Appraiser shall designate the Fair Market Value Rent, and the rent payable during the Renewal Term shall be the sum determined by adding the total of the Fair Market Value Rent designated by each Appraiser and dividing such total by the number of Appraisers. The cost of the services of said Appraisers shall be divided equally between the City and the Commonwealth.

(d) Nondisturbance agreements.—The Department of General Services, with the concurrence of the Department of Environmental Resources, acting on behalf of the Commonwealth of Pennsylvania, is also specifically authorized to enter into one or more nondisturbance agreements with any sublessee of the premises described in this section pursuant to which the Commonwealth will agree that, if the Commonwealth succeeds to the interest of the City of Philadelphia under said sublease, it will not terminate said sublease unless said sublessee is in default thereunder.

(e) Leasehold condominium.—The Department of General Services, with the approval of the Attorney General, is hereby authorized to execute, on behalf of the Commonwealth of Pennsylvania, any declaration or other document necessary to submit these premises or any portion thereof and any improvements thereon to the provisions of 68 Pa.C.S. Part II Subpt. B (relating to condominiums) as a leasehold condominium.

(f) Use of lease revenues.—All lease revenues generated by the properties described in this section shall, less the costs described in subsection (c), be split evenly between the City of Philadelphia and the Commonwealth. The city's share shall be for the exclusive use, for maritime purposes, of the Philadelphia Port Corporation and subsidiaries thereof, or any successor entity, or in the event that such entities cease to exist following any unification or consolidation of port operations, the appropriate managing entity for operations at the Port of Philadelphia as recognized and designated by the Commonwealth.

(g) Definition.—As used in this section, the term "maritime purposes" means activities directly related to the handling of cargo or passengers for import or export through the Port of Philadelphia.

Section 4. Effective date.

This act shall take effect immediately.

APPROVED—The 13th day of July, A. D. 1988.

ROBERT P. CASEY