

## No. 2004-4

## AN ACT

## HB 696

Authorizing and directing the Department of General Services, with the approval of the Governor, to grant and convey to the Philadelphia Regional Port Authority certain lands situate in the 39th Ward of the City of Philadelphia; and authorizing the Department of General Services, with concurrence of the Department of Environmental Protection, to lease to Isle of Capri Associates land within the bed of the Delaware River in the City of Philadelphia.

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

Section 1. Land in the City of Philadelphia.

(a) Authorization.—The Department of General Services, with the approval of the Governor, is hereby authorized and directed on behalf of the Commonwealth of Pennsylvania to grant and convey to the Philadelphia Regional Port Authority for \$1 certain lands situate in the 39th Ward of the City of Philadelphia described in subsection (b).

(b) Description.—The lands to be conveyed pursuant to subsection (a) consist of 47.204 acres more particularly described as follows:

ALL THAT CERTAIN tract, piece or parcel of land situate in the 39th Ward of the City of Philadelphia, Commonwealth of Pennsylvania, as shown on a plan prepared by VanDemark & Lynch, Inc., Surveyors, Planners, and Engineers, of Wilmington, Delaware, dated March 13, 2000 and described as follows to wit:

BEGINNING at point on the Bulkhead Line of the Delaware River, as established by the Secretary of War, September 10, 1940, a common corner for lands now or formerly of Consolidated Rail Corporation, and Parcel 9, the said point being measured the nine (9) following described courses and distances from the intersection of the easterly side of Broad Street (at 300 feet wide) with the southwesterly side of Pattison Avenue (at 120 feet wide):

- (1) Southwesterly along the easterly side of Broad Street, 2,527.57 feet to a point;
- (2) Southeasterly at right angles to said Broad Street, 37.00 feet to a drill hole set, a corner for the said lands now or formerly of Consolidated Rail Corporation; (courses 3 through 8 along the southerly side of lands now or formerly of Consolidated Rail Corporation)
- (3) South 75 degrees 30 minutes 00 seconds East, 3.00 feet to a drill hole set;
- (4) South 76 degrees 31 minutes 21 seconds East, 229.54 feet to an iron pin set;
- (5) South 68 degrees 33 minutes 21 seconds East, 284.65

- feet to an iron pin set;
- (6) South 63 degrees 50 minutes 26 seconds East, 341.02 feet to an iron pin set;
  - (7) Southeasterly by a curve to the left having a radius of 2,287.44 feet, and an arc length of 730.03 feet to an iron pin set, said point being distant by a chord of South 72 degrees 59 minutes 00 seconds East, 726.93 feet from last described point;
  - (8) South 82 degrees 07 minutes 34 seconds East, 1,741.91 feet to a point; and
  - (9) South 76 degrees 03 minutes 40 seconds East, 6,143.91 feet to the said point of Beginning;

THENCE from the said point of Beginning, extending from the said Bulkhead Line of the Delaware River, South 76 degrees 03 minutes 40 seconds East, 690.69 feet to a point on the Pierhead Line of the Delaware River as established by the Secretary of War, September 10, 1940;

THENCE, along the said Pierhead Line of the Delaware River, the four (4) following described courses and distances:

- (1) South 32 degrees 13 minutes 41 seconds West, 2,200.66 feet to a point;
- (2) South 49 degrees 25 minutes 45 seconds West, 837.54 feet to a point;
- (3) South 57 degrees 56 minutes 20 seconds West, 914.92 feet to a point; and
- (4) North 34 degrees 19 minutes 56 seconds West, 1,090.88 feet to a point on the aforesaid Bulkhead Line, a corner for Parcel 9;

THENCE, along the said Bulkhead Line of the Delaware River, being the dividing line between Parcel 9 and Parcel 9A, the two following described courses and distances:

- (1) North 58 degrees 07 minutes 17 seconds East, 1,737.34 feet to a point; and
- (2) North 40 degrees 23 minutes 05 seconds East, 1,627.95 feet to the point and place of Beginning;

CONTAINING within said metes and bounds, 47.204 acres of land being the same, more or less.

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

(d) Deed.—

(1) The deed of conveyance shall contain a clause that the lands conveyed herein shall be used only for maritime purposes by the grantee or its successor in interest. Should the grantee or its successor in interest allow the lands conveyed to be used for any other purpose or attempt to convey or transfer the lands, the title shall immediately revert to and revest in the grantor. The term "maritime purposes" shall mean activities directly related to the handling of cargo for import or export or the transport of passengers through the Port of Philadelphia, but the term shall not mean activities related to gambling or gaming.

(2) The deed of conveyance shall contain a clause that if the Philadelphia Regional Port Authority or its successor in interest cease to exist, the lands conveyed herein shall immediately revert to and revest in the grantor unless a successor authority has been formed to continue the Commonwealth's governance of regional port activities along the Delaware River.

(e) Deed execution.—The deed of conveyance authorized by this section 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.

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

## Section 2. Land within the Delaware River bed.

(a) Authorization.—The Commonwealth owns the lands within the bed of the Delaware River, a portion of which lands are located in the 5th ward of the City of Philadelphia, and includes lands commonly known as piers No. 36 North, No. 37 North, No. 38 North and No. 39 North. The Department of General Services, with the concurrence of the Department of Environmental Protection, acting on behalf of the Commonwealth, is hereby authorized to lease to the Isle of Capri Associates, for an initial term of up to 99 years, land within the bed of the Delaware River in the City of Philadelphia and to extend the period for all or any portion of the leased premises for an additional term of up to 99 years.

(b) Description.—The land to be leased is more particularly described as follows:

ALL THAT CERTAIN lot or piece of land situate in the 5th ward of the City of Philadelphia more particularly bound and described according to a plan of ALTA/ACSM land title survey of Tabas Riverfront Property prepared by Pennoni Associates Inc. and dated June 10, 1994, as follows to wit:

BEGINNING at a point, said point being north 40 degrees 00 minutes 13 seconds east a distance of 140.223 feet from the intersection of the easterly right-of-way of Delaware Avenue (width varies) and the southeasterly right-of-way of Penn Street (60 feet wide), north 40 degrees 00 minutes 13 seconds east, a distance of 624.260 feet to a point; thence (2) leaving the southeasterly right-of-way of Penn Street (60 feet wide) and passing through the center of a 10 feet wide alley, south 49 degrees 59 minutes 47 seconds

east a distance of 723.219 feet to a pierhead line in the Delaware River, established January 5, 1894, approved by the Secretary of War September 10, 1940; thence (3) along the pierhead line in the Delaware River established January 5, 1894, approved by the Secretary of War September 10, 1940, south 44 degrees 43 minutes 16 seconds west a distance of 426.580 feet to a point; thence (4) along the same, south 25 degrees 35 minutes 34 seconds west a distance of 136.878 feet to a point on the northerly line of Fairmont Avenue produced; thence (5) along the northerly line of Fairmont Avenue produced, north 75 degrees 01 minutes 01 second west a distance of 55.471 feet to a point; thence (6) leaving the northerly line of Fairmont Avenue produced, along the southerly side of Cohocksink Creek, north 49 degrees 23 minutes 29 seconds west a distance of 361.500 feet to a point; thence (7) along the same, north 71 degrees 14 minutes 28 seconds west a distance of 125.677 feet to a point; thence (8) along the same north 50 degrees 20 minutes 49 seconds west a distance of 194.573 feet to the point of beginning being known as Nos. 877-923 Penn Street (Piers 36 to 39 North). Excepting, however, such portion of said described parcel situate to the west of the bulkhead line of the Delaware River established January 5, 1894, and approved by the Secretary of War September 10, 1940.

(c) Lease agreement.—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 Protection, in the name of the Commonwealth. The lease shall grant the lessee the right to assign the lease or 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.

(d) Sublease.—The Department of General Services, with the concurrence of the Department of Environmental Protection, 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 act pursuant to which the Commonwealth will agree that, if the Commonwealth succeeds to the interest of the sublessor under the sublease, it will not terminate the sublease unless the sublessee is in default.

(e) Improvements.—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. Pt. II Subpt. B (relating to condominiums) as a leasehold condominium.

(f) Consideration.—The Department of General Services shall lease to the Isle of Capri Associates the land within the bed of the Delaware River as described in subsection (b) upon such terms and conditions and for such

consideration as it shall, with the concurrence of the Department of Environmental Protection, establish through the lease agreements.

Section 3. Effective date.

This act shall take effect immediately.

APPROVED—The 5th day of February, A.D. 2004.

EDWARD G. RENDELL