

## No. 1989-76

## AN ACT

## HB 53

Authorizing and directing the Department of General Services, with the approval of the Governor and the Chancellor of the State System of Higher Education, to convey to Pocono Medical Center a certain tract of land situate in the Borough of East Stroudsburg, Monroe County, in exchange for a certain monetary consideration and a certain tract of land; and authorizing the Department of General Services, with the approval of the Department of Environmental Resources, to supplement and amend a lease between the Commonwealth and the City of Philadelphia, authorized pursuant to the act of December 9, 1980 (P.L.1133, No.201), subject to certain conditions, in the fifth ward of the City of Philadelphia.

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

Section 1. The Department of General Services, with the approval of the Governor and the Chancellor of the State System of Higher Education, is hereby authorized and directed on behalf of the Commonwealth of Pennsylvania to grant and convey to Pocono Medical Center the following tract of land bounded and described as follows:

All that certain lot, piece or parcel of land situated in the Borough of East Stroudsburg, County of Monroe, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a concrete monument on the northerly line of East Brown Street, the southeasterly corner of lands of Pocono Hospital; thence by lands of Pocono Hospital north 12 degrees 53 minutes 47 seconds west 486.50 feet to a point, the northeasterly corner of said lands of Pocono Hospital; thence by lands of East Stroudsburg University, of which this parcel of land was formerly a part, south 23 degrees 39 minutes 16 seconds east 495.59 feet to a point on the northerly line of East Brown Street; thence along said northerly line of East Brown Street south 77 degrees 20 minutes 09 seconds west 92.51 feet to the place of beginning.

Containing 22,502 square feet, more or less.

Section 2. The conveyance authorized by section 1 shall be in exchange for \$7,500 in monetary consideration and the conveyance by Pocono Medical Center to the Commonwealth of Pennsylvania of a tract of land, bounded and described as follows:

All that certain message known as 220 Normal Street and lot, tract, piece or parcel of land, including a wooden frame residence, situate in the Second Ward of the Borough of East Stroudsburg, County of Monroe, and Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a post on the north side of Normal Street, being the eastern corner on Normal Street of and formerly of W. S. Felver; thence along the line of said land formerly of W.S. Felver in a northerly direction at a right angle to the line of Normal Street, two hundred feet to a post in the line of

land late of Elizabeth LeBar; thence along the said line of land late of said Elizabeth LeBar in an easterly direction forty feet and six inches, more or less, to other lands formerly of Albert W. Knapp; thence along said other lands formerly of said Albert W. Knapp in a southerly direction and at right angles to the line of Normal Street two hundred feet and six inches, more or less, to the said northerly line of said Normal Street; thence along said line of said Normal Street in a westerly direction forty feet to the place of beginning.

Section 3. The conveyance authorized by section 1 shall be made under and subject to all easements, servitudes and rights of others, including, but not confined to, streets, roadways and rights of 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.

Section 4. The deed of conveyance shall be approved as required by law and shall be executed by the Secretary of General Services in the name of the Commonwealth of Pennsylvania.

Section 5. The parties to the transaction shall bear their respective costs.

Section 6. (a) The Commonwealth of Pennsylvania 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, commonly known as Piers #3 and #5. 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) 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 grant to the City of Philadelphia the right to extend the lease period, authorized pursuant to the act of December 9, 1980 (P.L.1133, No.201), entitled "An act 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 fifth ward of the City of Philadelphia, Pennsylvania," for certain portions of the leased premises as outlined below 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.

All that certain lot or piece of ground situate in the Fifth Ward of the City of Philadelphia and described in accordance with a Survey and Plan of Properties made November 18, 1981, and revised January 6, 1982, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District.

Beginning at a point on the easterly side of Delaware Avenue, L.R.67025, variable width, and the Bulkhead Line of the Delaware River as fixed by the

Secretary of War, January 20, 1891, and reestablished September 10, 1940, said point being located north 14 degrees 03 minutes 50 seconds east, the distance of 147 feet from the point of intersection of the said Bulkhead Line and the former north line of Market Street, 100 feet wide, produced; thence extending north 14 degrees 03 minutes 50 seconds east, along the said easterly side of Delaware Avenue and said Bulkhead Line, the distance of 791 feet 2 1/8 inches to a point; thence extending south 75 degrees 56 minutes 10 seconds east, the distance of 61 feet 10 1/4 inches to a point; thence extending south 79 degrees 48 minutes 05 seconds east, the distance of 471 feet 8 1/8 inches to a point on the Pierhead Line of the Delaware River as fixed by the Secretary of War, January 20, 1891, and reestablished September 10, 1940; thence extending south 14 degrees 51 minutes 14 seconds west, along the said Pierhead Line, the distance of 263 feet 6 1/8 inches to a point; thence extending south 11 degrees 13 minutes 56 seconds west, along the said Pierhead Line and partly crossing the easterly end of an easement for drainage purposes, variable width, the distance of 579 feet 10 1/4 inches to a point; thence extending north 80 degrees 06 minutes 20 seconds west, within the bed of the said easement, the distance of 371 feet 11 3/8 inches to a point; thence extending north 9 degrees 53 minutes 40 seconds east within the bed of said easement for drainage purposes, the distance of 60 feet 1 5/8 inches to a point on the easterly side of a certain easement for service road, private utilities, water and drainage purposes, variable width; thence extending north 80 degrees 06 minutes 20 seconds west, partly along the northerly end of the said easement for service road, private utilities, water and drainage purposes, and partly along an offset line of said Delaware Avenue, the distance of 182 feet 7 3/8 inches to the said easterly side of Delaware Avenue and Bulkhead Line, the first mentioned point and place of beginning. Containing in area 445,144 square feet. Being known as Pier #3 and Pier #5.

Parcel No. 1A.

All that certain riparian parcel situate in the Fifth Ward of the City of Philadelphia and described in accordance with a Survey and Plan of Properties made April 17, 1989, and revised April 25, 1989, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at a point located the following two courses and distances from the point of intersection of the easterly side of Delaware Avenue (SR #2001, variable width) and Bulkhead Line of the Delaware River, as fixed by the Secretary of War, January 20, 1891, and reestablished September 10, 1940, with the former northerly side of Market Street (100 feet wide) produced:

1. North 14 degrees 03 minutes 50 seconds east, along the said easterly side of Delaware Avenue and said Bulkhead Line, the distance of 938 feet 2 1/8 inches; thence

2. South 75 degrees 56 minutes 10 seconds east, the distance of 31 feet 2 3/4 inches to the said beginning point; then extending north 14 degrees 03 minutes 50 seconds east, the distance of 110 feet 8 inches to a point; thence extending south 79 degrees 46 minutes 10 seconds east, the distance of 502 feet 8 3/8 inches to a point on the Pierhead of the Delaware River, as fixed by the Secretary of War, January 20, 1891, and reestablished September 10,

1940; thence extending south 14 degrees 51 minutes 14 seconds west, along the said Pierhead Line, the distance of 215 feet 1 3/8 inches to a point; thence extending north 79 degrees 48 minutes 06 seconds west, the distance of 484 feet 2 1/4 inches to a point; thence extending north 32 degrees 52 minutes 08 seconds west, the distance of 21 feet 3 inches to a point; thence extending north 14 degrees 03 minutes 50 seconds east, the distance of 88 feet 11 3/8 inches to the said beginning point.

Containing in area 107,419 square feet (2.46599 acres).

(c) 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, attorney 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 seventy-five percent (75%) to the said Lessor, Commonwealth of Pennsylvania, or its designee or assignee, and twenty-five percent (25%) 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) 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 above-described premises 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) 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 the above-described 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.

Section 7. This act shall take effect immediately.

APPROVED—The 20th day of December, A. D. 1989.

ROBERT P. CASEY