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ARIZONA ATTORNEY GENERAL

DEPARTMENT OF LAW OPINION NO. 74-23 (R-46)

REQUESTED BY: ANDREW L. BETTWY
Commissioner
Arizona State Land Department

QUESTION: May the State Land Department require applicants for lease or purchase of state lands to provide comparable sales data from the geographic area in which the land they desire to purchase or lease is located?

ANSWER: Yes.

A.R.S. § 37-132.A.4 provides as follows:

A. The state land commissioner shall:

* * *

4. Classify and appraise all state lands, together with the improvements thereon, for the purpose of sale or lease. The state land commissioner may impose such conditions and covenants and make such reservations in the sale of state lands as he deems to be in the best interest of the state of Arizona. Sales to governmental agencies for cash without public auction shall be made for a specific purpose and on condition of reversion to the state of Arizona when the lands cease to be put to the purpose for which they shall have been sold. The provisions of this paragraph shall be subject to hearing and judicial review procedures pursuant to § 37-134.

In addition, A.R.S. § 37-282 provides:

Lessees of state lands shall cooperate with the state land department in making classifications and appraisals. Lessees shall furnish information requested by the department pertaining to the use of the lands proposed by

lessee and in connection with other property held by the lessee as part of a unit. Information furnished by lessee, except that pertaining to state lands, shall be confidential and shall not be subject to public inspection.

This office is of the opinion that the above language gives the State Land Commissioner power to impose the condition of requiring appraisal information from an applicant before a sale or lease may be approved by the Department. It is also clear that any requirements must be imposed within the administrative standard of "what is in the best interest of the state and of the greatest benefit to its residents." See Williams v. Greene, 95 Ariz. 378, 390 P.2d 907 (1964). Therefore, based on authority of the specific language of A.R.S. §§ 37-132.A.4 and 37-282, the Commissioner has full authority to require appraisal information from an applicant prior to acting on an application, so long as he deems that requirement to be in the best interest of the state.

It is further suggested by this office that, if this procedure is implemented, the rules and regulations of the State Land Department should reflect the new requirement in order to give adequate notice to the public.

Respectfully submitted,



N. WARNER LEE
The Attorney General

NWL:CM:lf