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June 18, 1981

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ARIZONA ATTORNEY GENERAL

Mr. Joe T. Fallini
State Land Commissioner
State Land Department
1624 West Adams
Phoenix, Arizona 85007

Re: R80-247 I81-082
R81-039

Dear Mr. Fallini:

In your letter of March 4, 1981, you asked whether A.R.S. § 37-132.A.6 requires the State Land Commissioner to obtain Land Department Board of Appeals approval of annual rental changes in leases of state land for commercial purposes.

A.R.S. § 37-132.A.6 provides, in pertinent part:

[The State Land Commissioner shall] have authority to lease for commercial purposes and sell all land owned or held in trust by the state but any such lease for commercial purposes or any such sale shall first be approved by the board of appeals

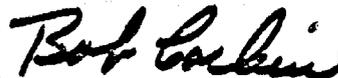
Although the statute clearly provides for Board approval of the initial commercial lease, it does not specify whether Board approval of changes to the lease is necessary. We note that while Board review of rental changes to a lease may be helpful in securing the best value for leases, the Legislature has provided no indication of the extent to which it intends the Board to approve leases. In fact, the provision has not been interpreted consistently historically by various Boards and Commissions, and the Legislature has never acted to clarify their respective duties.

We think that in light of the lack of legislative direction, the matter should properly be resolved in the executive branch. You and the Board, with the concurrence of

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the Governor, should make a policy decision concerning review of commercial leases.^{1/} We further suggest that both you and the Board seek legislative clarification of your duties.

Sincerely,



BOB CORBIN
Attorney General

BC:clp

1. As a practical matter, the Board has been approving commercial leases containing the following language: "The lessee agrees to pay as rental an amount to be determined by the State Land Commissioner each year by an appraisal made by him or his duly authorized agent, as provided by law." This clause may be interpreted as being a policy agreement between the Board and Commissioner allowing the Commissioner to establish yearly rentals without review, although you and the Board are entitled, of course, to establish whatever policy you may agree upon.