

CENTRALIZED REAL ESTATE STAFFS AND THE PROPERTY MANAGEMENT TEAM

Keys to an Effective Public Property Management Program

by Jean M. Diaz, SR/WA, SCV

James Downs, Jr. in *Principles of Real Estate Management*, concludes that "Real Estate at any given moment in time primarily is a reflection of the functional demands of an ever-changing society, which demands, of course, lie within the bounds of what is possible and profitable . . . In other words, as society continues to expand and change, so too, does the management of its increasingly diverse and complex real properties." Property management has been termed the growth industry in real estate.

The growth of property management as a viable and necessary profession is also chronicled in William Walters, Jr.'s book, *The Practice of Real Estate Management for the Experienced Property Manager*. Walters traces the early stages of property management to the late 19th century when multi-family dwellings and small retail stores became common parts of urbanized America. The real estate boom of the 1920's further increased the role of the property manager in American society. The depression of the 1930's caused many institutions to take over defaulted properties. This created the third major boom of property management growth.

Recent growth of conglomerates and institutions as a driving force of change in our society has contributed the most recent significant advance of the property management profession. These changes have not only increased the need for more property managers, but has also demanded a broader skill and knowledge base for modern property managers.

As impacts of societal growth were and are being felt in the private sector property management field, these same impacts are changing the public sector. Today public agencies are large owners of real estate assets. A review of any public agency's statement will reveal the significant real estate assets held by that agency. Also of relevance to the expanding scope of public agency property management responsibilities is the broad

diversity of real estate related activities with which more and more public agencies are concerned. Increasingly public agencies are concerned with leasehold development and operation of income producing activities such as harbors and marinas containing boat slips, boat repair yards, restaurants, hotels, commercial offices and services, with miscellaneous retail shops; sports and concert complexes and arenas; airports; golf courses; housing developments and other business operations. Combined with these factors is the general rapid appreciation of property values in the United States.

Property management, in its broadest sense, is the administration of real estate assets toward the end of maintaining and enhancing property productivity and value. Given the combination of factors discussed above, it is clear that the public agency real estate staff, especially their property management emphasis, is critical to today's public agencies. The remainder of this paper will focus on two of the critical components of an effective public agency property management program: a centralized real estate staff and the creation and maintenance of an effective property management team.

WHY A CENTRALIZED REAL ESTATE STAFF?

As discussed above, public agencies control significant real estate assets. Given the rapid appreciation in real estate prices throughout the country, how public agencies manage these very valuable real estate assets can be crucial to public agencies. As indicated above, the skills of public agency real estate staffs have increased dramatically. Early public agency real estate staffs primarily acquired rights of way for streets, storm drains, highways, freeways, public parks and other parcels related to public agency functions. However, modern public agencies are being faced with a much

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more diverse demand for real estate skills and expertise.

Today's real estate staffs must have significant property management skills to respond to the ever increasing sophisticated nature of real estate transactions. These property management skills are no longer limited to effective tenant selection and rent collection, but must include an in-depth knowledge of:

- Real Estate Law

(see Staff, pg. 15)

Staff (cont. from pg. 14)

- Contract Law
- Risk Management
- Economics
- Negotiations and Interpersonal Relations
- Planning
- Public Administration and Sociology

The most effective way to provide a well rounded real estate staff which contains the requisite skills and resources is to develop a centralized real estate staff. This centralized staff would provide services to all of a public agencies' departments and divisions. This approach has a number of critical benefits, including:

- Greater accountability of valuable agency real estate assets.
- Improved long range policy analysis with regard to management of real estate assets.
- Preparation of complete inventories of agency owned and leased property including an identification of surplus or marginally used assets.
- Minimizing duplication of services and record keeping.
- Consistent application of real estate practices and procedures [by all agency departments and divisions] including compliance with ever-growing State and Federal laws and regulations regarding public agency real estate transactions.
- The ability to provide for the balancing of fluctuations in work load for differing aspects of real estate services demanded, e.g. shifts between real property valuation, acquisition, negotiation and property management as necessary to meet the demands for these various services.

Over the last 15 to 20 years, more and more public agencies have been creating centralized real estate staffs. These agencies have recognized that fragmented real estate staffs may result in haphazard and inconsistent development and application of policies, procedures and strategies to deal with the agencies' real estate transactions and record keeping. For the most part these centralized real estate staffs have been separate departments or divisions within a general services branch of the agency. For example, in Palo Alto, California, all real estate transactions are the responsibility of the Real Estate Division under the supervision of the Real Property Administrator.

The Real Estate Division is within the Department of Budget and Resource Management. In Orange County, California, the centralized Real Estate Division is a division within the Facilities and Real Property Services section of the General Services Agency.

A centralized real estate staff is a prerequisite for an effective property management program but, it is not sufficient in and of itself. The following paragraphs will discuss another critical component required for an effective public agency program—the Property Management Team.

THE PROPERTY MANAGEMENT TEAM AND THE PROPERTY MANAGER

What is the Property Management Team? A property management or leasing program is a coordinated program series of agency activities that involves leasehold interests. The complexities inherent in most projects requires the efforts of a number of agency specialists or consultants. The property management team is an interrelated group of agency specialists or consultants whose coordinated efforts result in a property management or leasing program. Typical property management members would include:

- Attorney or Counsel
- Accountant/Auditor
- Architect/Engineer
- Risk Manager
- Property Manager
- Operating Department Representative

The relative importance of, and contribution from, each member of the team will vary from one stage to the next. At times a project team may also include outside interests. For example—the current project team for recruitment and selection of a golf professional for the Palo Alto Municipal Golf Course includes, in addition to the above, representatives from the relevant business sector (PGA and an outside professional) and representatives of the consumer sector (members of the City's Golf Advisory Council). This team composition provides the benefit of securing relevant input throughout the development and solicitation of the

Request For Proposal and should result in a better package for the City.

What is the Property Manager's Role in the Property Management Team?

The efforts and contributions of the members of the property management team need to be coordinated. The Property Manager, in addition to being responsible for all of the direct leasing activities including lease negotiation and drafting, marketing, and lease administration, is also generally responsible for the coordination of the efforts of the other property management team members.

How Does the Property Management Team Function?

An effective property management team will have defined roles and responsibilities for each team member appropriate for each stage of the property management or leasing program. These responsibilities will be understood by each member of the team and should be set forth in writing as part of the agency's policies and procedures. The property manager, as coordinator of the property management team, is responsible for seeking the necessary inputs from the various team members at the appropriate times. Depending on the complexities and the stage of a given leasehold project, the property team effort may be ad hoc and informal, requiring only written correspondence or interaction. For more complex and critical projects, more formal and periodic team meetings may be required at various stages of the project. The important factor is that the team members and their roles and responsibilities are clearly defined and understood throughout the organization.

A Guide for Developing and Maintaining a Property Management Team

The Revenue Lease Administration Procedure is a guide to implement the property management team for the County of Orange, California. This procedure was formally adopted by the County's Board of Supervisors. This procedure outlines the typical property management team members and their responsibilities during both the development and operational stages of a lease.

(see Team, pg. 16)

comparable section of the Natural Gas Act for natural gas pipeline companies holding certificates of public convenience and necessity, 15 U.S.C. §717, but the rationale is identical and the language of the statute is very similar. The Federal Power Act applies to licensees from the Federal Power Commission, now the Federal Energy Regulatory Commission (FERC). The Natural Gas Act refers to holders of certificates of public convenience and necessity issued by FERC.

3. Lands held by the United States in trust.

These are basically reservation lands set aside by treaty or executive order. As I mentioned earlier, one of the questions here is whether the United States has consented to be sued and whether the tribe is subject to the court's jurisdiction. Where the United States has delegated its authority to a licensee or certificate holder, such as under the Federal Power Act and the Natural Gas Act, it would be anomalous to conclude that the exercise of that authority—which presupposes that findings have been made that the project is in the public interest and is required by the public convenience and necessity—could be thwarted by the defense of sovereign immunity. The United States has delegated to the licensee or certificate holder its authority to take property for public use. It would be inconsistent for the United States to invoke the doctrine of sovereign immunity from suit to thwart the implementation of the delegation, or for the court to say that the United States, through its licensee, could not acquire the land of its ward, the Indians, upon the payment of fair and just compensation.

In short, you should not assume that just because property is Indian property, your company cannot exercise powers of eminent domain. Look into it carefully. There is, of course, no federal power of eminent domain with respect to oil or products pipelines. Those pipelines derive condemnation powers from the various states and condemnation under state statutes poses different problems. But at least where allottee land is involved, it is clear that condemnation is available. It is also clear that if the Indian OPEC persists in its insistence that no permits will

be granted or renewed unless the cost of locating the pipeline around the reservation is paid, and if the Department of Interior persists in refusing to issue permits without tribal consent, the courts will be called upon to determine whether Indian lands can be used as barriers to utility operations.

One final point in dealing with particular Indian tribes: Note should be taken of any treaties. For example, the Treaty with the Navajos made at Fort Sumner in the Territory of New Mexico on June 1, 1868 contains this very interesting provision:

"They [meaning the Navajos] will not in future oppose the construction of railroad, wagon roads, mail stations, or other works of utility or necessity which may be ordered or permitted by the laws of the United States; but should such roads or other works be constructed on the lands of their reservation, the government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of said commissioners to be a chief or head man of the tribe."

The significance of their agreement not to oppose "other works of utility or necessity which may be ordered or permitted by the laws of the United States" is immediately apparent. There are many treaties of course, but the point is that in dealing with the Indian tribes you should not overlook the possibility that a treaty may contain some helpful provision.

Summarizing, I would suggest to you that:

1. Insofar as pipeline applications are concerned, rejection by the Bureau of Indian Affairs on the ground of no consent by the tribe should *not* be taken as conclusive;
2. It should not be assumed that because Indian land is involved, no power of eminent domain exists; but,
3. Finding out what the answers are can be costly both in terms of time and dollars spent. Alternative routes which avoid the problem may very well be the most practical alternative to permitting.

In essence, the Property Management Team, especially during the operational stages of leases or concession agreements, is a procedure for management by exception. Using the Palo Alto Municipal Golf Course as an example, the Recreation Department has appointed a Golf Course Manager who is responsible for the day-to-day coordination of the Golf Professional, the Golf Course Coffee Shop operator and the City's maintenance crews. When problems with concessionaire non-compliance occur, e.g. operational deficiencies, insurance lapses, financial statements not received when due, etc., the City's Golf Course Manager will work with the concessionaires to seek compliance. After a reasonable time has lapsed without securing tenant performance, the Golf Course Manager will inform the Real Property Administrator of the continuing deficiencies. The Real Property Administrator then attempts to secure tenant compliance. Should the Real Property Administrator's efforts not result in tenant compliance after a reasonable period of time, the Attorney's office will be asked to initiate necessary legal action to insure performance. This has proven to be an effective procedure in managing limited staff resources and in securing tenant performance. Such a procedure, however, does require a great deal of cooperation between the operating departments and the Real Estate staff.

The Property Management Team concept can be modified to meet the needs of any agency. A centralized Real Estate staff and an organizational commitment to the Property Management Team concept, should result in significant improvements in the management of public agency real estate assets. A survey of former students of the IRWA Property Management Leasing course, to whom centralized real estate staff and property management team concepts were presented, reveals that implementation of the Property Management Team concept results in improved effectiveness and efficiency of their property management programs.

In today's environment of rapidly appreciating real estate values and growing taxpayer concern regarding public agency performance, it is important to re-

(see Public, pg. 19)

Fee (cont. from pg. 18)

in addressing compensation for acquisition of right-of-way easements. This range responds to various tangible specified affects which may include something in addition to 16.7% previously defined and possibly something more than the 20% to 30% judged as appropriate in the particular instance mentioned.

Conclusion

Allowing that the mean may be 50% or greater, it would be administratively appropriate to suggest rounding to an absolute maximum percentage based on the average of 50 to 100% or 75% of the underlying fee value to establish the market value of an easement in perpetuity for the purpose of constructing and maintaining a transmission line in an agriculturally oriented activity.

In an instance or unique circumstance where the majority of the owner's rights are removed or taken (75 to 100%) and the compensation (75% of market value) appears to be inadequate, acquisition in fee simple title at full market value would then be the only appropriate method for resolution.

As an example: *Station Site*

Area of site—17 acres

Market value of land = \$700 an acre or \$11,900. The owner is paid \$700 per acre x 17 acres = \$11,900. Allowing that the owner is subject to a federal capital gains tax, the tax comprising one-half the increase in value from December 31, 1971 (valuation day) to the sale price and applied against the individual's rate of taxation. Assuming the value of the land on December 31, 1971 is considered to be \$150 the amount taxable is

$$\frac{\$700 - \$150}{2} = \$275$$

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/acre or \$4,657. If the rate of taxation for the individual is 25%, the payable tax would be 24% of \$4,675 or \$1,168.75. The actual net return to the individual would be \$11,900.00 - \$1,168.75 = \$10,731.25 or \$631.26/acre. Based on a single deposit calculated at a safe rate of 10% return annually, this can be expressed as

$$\frac{\$63.13}{\$700.00} = 9\% \text{ annual return to land}$$

The potential annual income of the land is 35 bushels an acre #3 CW Red Spring Wheat at a value of \$5.50 bu/acre for 17 acres = \$3,272.50 or \$192.50/acre. The

potential expenses associated with the land = \$2,337.50 or \$137.50/acre (which includes operating costs, depreciation and reality taxes). The net profit is, therefore, \$55/acre annually or \$935, which can be expressed as

$$\frac{55}{700} = 7.85\%$$

annual return on the land.

Compensation in this instance represents 115% of productivity valuation, or an increase of 15% above the rate of return as a viable agricultural operation (the above value of acquisition is based on market value and calculated value of production to the owner).

FOOTNOTES:

1. *Alberta Agriculture Assessment of Effects of Power Lines on Farming Operations in Central Alberta—April/79.*
2. *1981 Manitoba Farm Management and Machinery Special—Manitoba Co-operator—including all equipment and labour costs—average for all operations.*
3. *Saskatchewan Power Corporation—Compensation Review Report.*
4. *Based on information supplied by the local Pool Grain Elevator Agent.*

Public (cont. from pg. 16)

alize that public agency real estate assets represent a significant taxpayer investment. How public agencies manage these crucial real estate assets can have a very important effect on their ability to maximize income or decrease costs. A centralized real estate staff together with an effective property management program utilizing the property management team concept, should result in significant benefits to public agencies in the management of their real estate assets.

For further information and a copy of the Revenue Lease Administration Procedure write:

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