
Government Property Division Land Department

INTRODUCTION

The Land Department's role is the legal aspect of government property management. This means that after the Estate Management Department or Joint Office has decided on the best possible use for a particular property, the issue is taken over by the Land Department for the actual disposal of the property under the procedures permitted by the Disposal of Government Land Act.

In general terms, the formal disposal of government property requires either the issue of a call for tenders or else an *ad hoc* Parliamentary Resolution. It is the Land Department's task to prepare tender documents, publish them and award the disposal. Likewise *ad hoc* Parliamentary Resolutions are prepared by the Department. Subsequent to the disposal of a property through lease agreements/contracts, the Land Department is then responsible for the follow-up and enforcement of any conditions imposed on the transferee. These include the payment of rent and the proper maintenance of the property, but may also contain other special conditions such as the development of structural improvements within specified time limits. The finalisation of contracts also includes those related to the acquisition of private property for a public purpose under the auspices of the Land Acquisition (Public Purpose) Ordinance. Indeed the expropriation of private property is a primary task of the Land Department, one which enables Government to carry out major infrastructure works and other projects of benefit to Maltese society.

The Land Department is organisationally divided up into two branches, namely the Enforcement Branch and the Contracts Branch; between them, these cater for the wide ranging roles entrusted to the Department. The former is responsible for all enforcement measures required to better manage government property, whilst the latter is in charge of the formal requirements of leasing or selling/purchasing property and the finalisation of related contracts.

ENFORCEMENT

The enforcement of contractual conditions is essential if property management is to be given any significance. Within this aspect, the very small number of Enforcement Officers carries out site checks to ensure that conditions of lease are being honoured. Non-compliance is met by counter measures to ensure that defaulters are brought back on track. These measures include formal warnings, the issue of prohibitory injunctions and also eviction proceedings. In this regard, Chapter 228 of the Laws of Malta - Land (Compulsory Eviction) Act – gives the Land Department extensive powers to evict persons who occupy government property without title. This power is used with caution but the Land Department is committed to ensure that government property is not abused of.

The Enforcement Section incorporates within it the collection of rent due on leased property. The non-payment of rent is monitored through periodical invoices and also through individual demand letters. Persistent non-payment leads to judicial action that may include executive warrants, the termination of leases and, in the more serious cases, eventual eviction.

During 2006, over 44,000 payments, which represent 55% of the total payments of rent, were effected at local councils, while 704 payments, which represent 15.8% of the total payments, were made through the GPD's website (www.gpd.gov.mt). Clients have three options for the payment of rent:- at the Department

by cheque or bank draft, at the local councils by cash, cheque or bank draft and from their homes by credit card through the GPD's website.

CONTRACTS BRANCH

The role of this Branch is the formalisation of any disposal or acquisition of property. The Disposal of Government Land Act stipulates that government property can generally be disposed of either through tenders or through a special Resolution of the House of Representatives.

The publication of tenders necessitates continual liaison with the Estate Management Department and the Joint Office to ensure that the appropriate conditions are set out in the tender. To ensure maximum publicity to tenders, relative adverts are made on a number of local newspapers apart from the Government Gazette. Transparency is ensured by opening all tender documents in public.

Government has for decades made use of the provisions of the Land Acquisition (Public Purpose) Ordinance (LAO) to enable it to take over private property without having finalised acquisition proceedings. The lack of property ownership information in Malta makes the whole acquisition process cumbersome and time consuming. It is one thing declaring a property to be required for a public purpose under the aegis of the LAO, but a completely different matter to actually enter into a deed of transfer. The whole process formerly involved the identification of owners (perhaps the most difficult part of the whole process), their root of title, the issue of a 'notice to treat' to offer a specific price for the property, litigation in front of the Land Arbitration Board, agreement on the compensation due and the final settlement through the publication of an acquisition contract. Upon publication of the contract, Government must pay damages based at 5% per annum on the price from date of taking over of the property up to the date of publication of contract. The damages are calculated on the price specified in the notice to treat, which price is estimated on the market value at the time the notice to treat is issued. Due to delay in establishing the root of title, the price of property, inclusive of damages, has through the years resulted in outstanding exorbitant acquisition debts.

Since 1994, the Department has limited the growth of the acquisition debt by requiring government departments that originate the need for the acquisition, to provide up front the full estimated value of the effected property. This ensures the payment on demand for any acquired property.

In its efforts to speed up the acquisitions process, the Land Department had, between 1996 and 2002, farmed out to lawyers in private practice the task of carrying out legal researches to prove the root of title. This has had positive results by reducing related time wastage but still the establishing of the root of title depended on third parties claiming to be the owners in making available the required documents in order to prove their title. The 5% damages was guaranteed and third parties took advantage by prolonging submission of the required information in order to benefit from the ever increasing property market prices on which the 5% damages per annum are payable. Lack of funds and lack of human resources have also contributed to this situation in that the department was constrained to limit the issue of notice to treats since once a notice to treat is served, payment must then be made. However in an attempt to extinguish the accumulation of the acquisition debts, during the last five years, additional funds have been provided and between 1999 and 2006 over Lm29.4 million have been paid for expropriated property.

In terms of the Land Acquisition (Public Purpose) Ordinance, as amended in 2002, the value is part of the President's Declaration and Government becomes the owner immediately the President's Declaration is published in the Government Gazette. Within a period of 15 days the Department deposits the value in an interest bearing account at a bank. It would then be up to the owners to prove title to the property. When the owners prove their title, the Department concludes the contract and pays the money deposited plus accrued interest. At the same time, the owners may still proceed to the Land Arbitration Board to contest the price.

In accordance with the provisions of these amendments, the Department can also (a) process past outstanding acquisitions in the manner set out above thereby stopping the accumulative 5% damages, (b) purchase property acquired under the title of *possession and use* by capitalising the yearly rent at 1 % and (c) purchase property acquired under title of *public tenure* by capitalising the yearly ground rent at 1.4%.

These amendments which came into force in March 2003 will not only minimise the expropriation debt but will enable government to draw up the long outstanding HOS plots contracts and dispose of residences within Housing Estates constructed on land still under acquisition. Under these amendments a total of 122 bank accounts have been opened in 2006. The total sum deposited amounts to Lm904,767.

2006 HIGHLIGHTS

Revenue Collection

During 2006, no less than 67,000 rent invoices, 250 judicial letters, and 65 lease termination warnings were issued to ensure timely recovery of rent dues, also necessitating telephone contacts and on site collections by the Department's enforcement officers. About 75 repayment agreements were also negotiated with defaulters. This has resulted in a total revenue in 2006 of Lm8,712,885 excluding sales.

Evictions

These constitute a strong deterrent against abuse of government property. During 2006, a total of 95 evictions were carried out with the full co-operation and assistance of the Commissioner of Police, the Ministry for Resources and Infrastructure and the Malta Environment and Planning Authority when demolition of property was involved. These included about 50 evictions carried out in connection with the Smartcity Project.

Tenders, Leases and Sales

During 2006, the Land Department advertised a total of 246 tenders for the lease of government property resulting in 104 lease agreements and 103 contracts. 270 encroachment permits were issued. These included permits for mobile kiosks, luna parks, circus and the holding of activities in various localities. 598 lease agreements for the lease of agricultural land made in terms of the Agricultural Scheme were concluded. The Land Department also completed the sale of government land/property resulting in a revenue for 2006 of Lm24,706,869. Government-owned land valued at Lm129,000 has been exchanged with private-owned property expropriated in terms of the Land Acquisition (Public Purposes) Ordinance.

Acquisition

In 2006, the Department finalised a number of acquisition deeds paying a total of Lm2,746,773 to owners of expropriated property. 62 new President's Declarations for the expropriation of land mainly for road formation being financed by the Italian Protocol have been issued. 62 President's Declarations of past outstanding acquisitions in order to compensate the owners in accordance with the amendments made to the Land Acquisition (Public Purpose) Ordinance (Chapter 88) have also been issued. 24 President Declarations for the termination of agricultural leases comprising of a total area of 88,756 square metres of government-owned land required for projects, have been made.

Releases

In 2006, a total of 14,434 square metres of land in various localities formerly acquired in virtue of the Land Acquisition (Public Purpose) Ordinance (Chapter 88) was released to the private owners.

Special Projects

The Land Department in conjunction with the Estate Management Department has had an important role in the drawing up of conditions and the preparation of plans of a number of major projects. In 2006, the Department has been actively participating in the Smartcity project. Other projects which the Land Department was involved in were the Tigné Holiday Inn Site and the Bugibba Perched Beach projects.

Free of Charge Services

During 2006, the Land Department continued to provide, free of charge, agency services to the Housing Authority, the Sports Council and the St John's Co-Cathedral Foundation. As part of these services, the total sum collected on behalf of the Housing Authority was Lm108,553. The sum of Lm81,044 was collected as rent for sports facilities on behalf of the Sports Council and the sum of Lm8,420 was collected as rent on behalf of the St John Co-Cathedral Foundation.

CONCLUSION

The Land Department's role in ensuring that the use of government property is appropriately controlled is considered to be of utmost importance. This will help to promote a rationalisation culture that appreciates the true potential value of government property and its possible uses. The other major task, which the Department is tackling seriously, is the acquisition debt problem and in 2007 the Department shall continue to explore further avenues in order to extinguish payments due for land expropriated in the past.

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