



According to DFA, the State Board of Finance (SBOF) approved GSD's purchase of nine lots at the Joseph E. Valdes Industrial Park in 2006. According to the minutes of the SBOF's January 2006 meeting, the nine lots totaled 13.8 acres. Acquisition was included in the Capitol Building Planning Commission's (CBPC) master plan for Santa Fe. The purchase price was \$6.9 million.

AOC notes the most recent appraisal, which was performed in 2005 and included five more parcels than the five to be transferred, was \$7.2 million. If half the parcels are transferred, and if a ten year old appraisal is still reliable, then the value of the property would be \$3.6 million.

Proceeds from the sale of GSD-owned real property usually go to the property control reserve fund to purchase, construct, or renovate state buildings, to alleviate reliance on leased space.

### **SIGNIFICANT ISSUE**

The resolution is not clear whether the Legislature is being asked to approve a sale or donation.

The Legislature appears to be delegating the authority to complete this transaction to the CBPC, including approving the purchase price and closing costs, and final disposition of the property. These types of lease-purchase or private-public partnership agreements can be quite complex and the CBPC may need to consult with the Attorney General's Office to ensure legal sufficiency.

The resolution supports GSD "transferring" real property in Santa Fe to the AOC. The AOC would maintain ownership of the land, select a vendor to build a privately-owned facility, and reports it would negotiate "an appropriate provision" for disposition of the land and facility at the end of a long-term lease. However, rather than a state agency to agency transaction, this is from one branch of government to another, and it is not clear if the statutes being cited sufficiently cover these transactions and the transaction should also be reviewed by State Board of Finance.

The resolution provides that AOC start construction within two years, and if AOC decides the property is no longer needed for a magistrate court, the property may be reconveyed to GSD.

AOC reports the current court facility is inadequate, the facility and site do not lend themselves to the renovations needed, and GSD has offered this building site to AOC free of charge.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Vetting property dispositions became an issue when the Legislature, in HJR 8, approved the sale of a historic property in the capital complex to a private person. HJR 8 required that the property not be sold until the sale had been "reviewed" by the Capital Buildings Planning Commission (CBPC). This prompted much discussion about whether or not the term "reviewed" implied an approval process. In the end, the CBPC only reviewed the sale, showing concerns and objections to the sale. The sale highlighted the need to clarify roles in the disposition of state-owned property and prompted the introduction of the three bills below:

SB 642/aSPAC and HB 516/a HBEC require SBOF review proposed real property dispositions worth \$200,000 or more beforehand and report those findings to the Legislature for ratification and approval, while SB 629 requires the CBPC review real property dispositions worth \$100,000 or more beforehand, and report those findings to the Legislature for ratification and approval.

**SUBSTANTIVE ISSUES**

DFA reflects that the SBOF has rules establishing requirements for its real property disposition reviews that could serve as a model for the types of contingencies and requirements that could be incorporated into legislative resolutions to help safeguard for legal sufficiency and protection of the State's interests. Those submission requirements, found at 1.5.23.9B NMAC include,

- (1) quitclaim deed containing the legal description of the property;
- (2) current appraisal and review by the Taxation and Revenue Department;
- (3) description of the reason for the sale or trade;
- (4) selection process used to determine purchaser; competitive sealed bid, public auction, or negotiation;
- (5) purchase price and if applicable, cost per square foot, cost per acre, etc;
- (6) sale agreement, if applicable;
- (7) resolution or minutes of the governing body, if applicable, authorizing the sale or trade and containing a provision making the sale or trade subject to approval by the board; and
- (8) approval by the state engineer of any transfer of water rights.

Additional requirements include potential first right of refusal by land grants under Section 13-6-5 NMSA 1978.

AHO/bb/je