

NUMBER: 1624

TITLE: Exercise of Autonomy for Certain Real Property Transactions

APPROVED: September 9, 2005

**I. Background**

The 2005 General Assembly session passed HB 2866 and SB 1327 to establish the Restructured Higher Education Financial and Administrative Operations Act. This Act allows public institutions of higher education restructured financial and operational authority as described in subdivisions A1 through A13 of Section 23-38.88 of the Act.

Section 4-5.08c of Chapter 912 of the 1996 Acts of the General Assembly delegated to the University the authorities otherwise granted to the Governor and the Department of General Services under Virginia Code §2.1-504.2 (now §2.2-1149) allowing the University to approve operating leases under policies, procedures and guidelines developed by the University and approved by the Secretaries of Finance and Administration. The authority has been carried-over in each subsequent year, and the §4-5.08c.1 of the 2003 Act expands the delegation to include income leases.

Pursuant to §23-38.88, *Eligibility for Restructured Financial and Administrative Operational Authority*, subdivisions A4 through A7 grants public institutions of higher education the authority to:

1. Acquire easements as provided in subdivision 4 of § 2.2-1149;
2. Enter into an operating/income lease or capital lease pursuant to the conditions and provisions provided in subdivision 5 of § 2.2-1149;
3. Convey an easement pertaining to any property such institution owns or controls as provided in subsection C of § 2.2-1150; and
4. Sell surplus real property valued at less than \$5 million, which is possessed and controlled by the institution as provided in with subdivision C 2 of § 2.2-1153.

In addition, the University, from time to time, is delegated authority by Executive Order to approve certain acquisitions of fee interest in real property required to support certain delegated capital construction projects.

## **II. University's Organizational Structure**

The structure for administering and performing each delegated function is as follows:

### **A. President or designee:**

1. With prior approval of the Board of Visitors, execute real property sales purchase contracts, real property sales deeds, and sale of real property transactions.
2. Execute real property purchase contracts, real property purchase deeds, and purchase of real property transactions.
3. With prior approval of the Board of Visitors, execute capital lease transactions conducted with the Old Dominion University Real Estate Foundation.
4. Execute non-capital lease and easement transactions conducted with the Old Dominion University Real Estate Foundation.

### **B. Vice President for Administration and Finance or designee:**

1. Execute all non-capital leases and easements except those lease and easement transactions conducted with the Old Dominion University Real Estate Foundation.
2. Approve all capital leases except those lease and easement transactions conducted with the Old Dominion University Real Estate Foundation.
3. Approve real property sales and purchase contracts, real property deeds, and sale and purchase of real property transactions.

### **C. Director of Real Estate and Space Management:**

1. Expenses Leases – Approve all non-capital leases; lease justifications, and waivers of solicitation and document the reasons; approve space utilization; and ensure compliance with approved guidelines and applicable law.
2. Income Leases – Approve all leases and waivers (and document the reasons a particular waiver is required), and ensure compliance with approved guidelines and applicable law.
3. Income Leases (Communication Towers) - Approve all leases and waivers (and document the reasons a particular waiver is required), and ensure compliance with approved guidelines and applicable law.
4. Capital Leases – Provide all leases and waivers for approval to the Vice President for Administration and Finance of designee, and ensure compliance with approved guidelines and applicable law.

5. Acquisition of Fee Interest - Recommend approval of purchase contracts; approve appraisals, environmental surveys and title reports and title insurance documents; and ensure compliance with approved guidelines and applicable law.
  6. Sale of Property (\$5M or less) - Provide purchase contracts for approval to the Vice President for Administration and Finance of designee; approve appraisals, environmental surveys and title reports and title insurance documents; and ensure compliance with approved guidelines and applicable law
  7. Acquisition of Easement Interest - Recommend approval of deeds of easement; approve appraisals, environmental surveys and title reports and title insurance documents; and ensure compliance with approved guidelines and applicable law.
  8. Granting of Easement Interest - Recommend approval of deeds of easement; approve appraisals, environmental surveys and title reports and title insurance documents; and ensure compliance with approved guidelines and applicable law.
  9. Perform market surveys and prepare lease recommendations, conduct or provide guidelines in the conduct of solicitation and negotiations as set forth in the University's approved guidelines.
- D. Assistant Attorney General and University Counsel: Approve leases, sales contracts, deeds, and easements as to form.

### **III. Policies and Procedures**

- A. Expense Leases - The guidelines for leasing real property for the University outlined in Chapter 1 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.
- B. Income Leases - The guidelines for leasing real property from the University outlined in Chapter 2 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.
- C. Income Leases – Communications Towers - The guidelines for leasing real property from the University for the purpose of erecting communications towers or attaching communications equipment to existing buildings in Chapter 3 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.

- D. Capital Leases - The guidelines for capital leasing real property for the University outlined in Chapter 4 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.
- E. Acquisition of Fee Interests - The guidelines for acquiring fee interest in real property outlined in Chapter 5 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.
- F. Sale of Property (\$5M or less) - The guidelines for selling real property valued at \$5 million or less outlined in Chapter 6 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.
- G. Easements for the Benefit of the University - The guidelines for acquiring easements for the benefit of the University outlined in Chapter 7 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.
- H. Easements for the Benefit of Others - The guidelines for granting easements for the benefit of others outlined in Chapter 8 of *Restructuring Plan Level I, Real Estate Manual* dated July 19, 2005 are hereby adopted. The Guidelines shall not be altered or amended without approval of the Board of Visitors. Notwithstanding the guidelines as hereby adopted, it is the responsibility of the University to ensure that all applicable existing and future laws are followed.
- I. Records and Reviews - All records and documentation will be maintained and filed in an accessible manner and made available for review at any time. Copies of all executed leases and other real estate instruments will be forwarded to the Bureau of Real Property Management within ninety (90) days following execution.