

## Disposal of Government Land and Ex-Church Property

To: Minister of Finance the Economy and Investment - Hon Tonio Fenech

Thro' Parliamentary Secretary for Small Business and Land - Hon Dr Jason Azzopardi

Date: 26<sup>th</sup> May 2011

---

The Government Property Department Tender Committee, formed in June of 2010, has as its aim to maximise Government revenue through the sensible disposal of Government property. The Committee is involved in decisions with regards to the method of disposal, approving the minimum value being assigned to this property, determining the right of first refusal, if applicable.

These past months the GPD Tender Committee has been presented with various requests for the purchase of freehold property, or the purchase of property held on Temporary Emphyteusis. The Committee are seeking further guidance from Government with regards to the practices they should adopt in their decision making process.

### Part I

When faced with requests for the sale of property, or redemption of ground rent of property held on Temporary Emphyteusis the GPD Tender Committee is suggesting the following:

1. To consider the sale of premises that are being used as Residences (both Ordinary or Summer Residences) ;
2. To consider the sale of garages that are attached to or underlie such residences, or a garage situated in the same block of residential apartments of which the residence forms part, or a garage that has been acquired together with such residence on the same deed; (do we include small stores/boathouses/back yards)
3. Not to consider the sale of Commercial premises, or virgin land unless:
  - the same conditions that apply to Paragraph 2 above apply to this premises;
  - this land is subject to an emphyteusis of which the remaining period of emphyteusis exceeds 50 years. Properties of this nature are to be valued according to the MFEI Formula and capped at the amount equivalent to 50 years of remaining emphyteusis in order to merit sale.
4. Exceptions to each area may apply and these requests will be evaluated by the GPD Tender Committee and decided upon on a case by case basis.

## Part II

### Properties transferred to Government through the Church State Agreement

On the 28th of November 1991 the Church entered into an Agreement with the Government by which it transferred, to the State, immovable property (lists of which were annexed to the said Agreement) which was no longer required for pastoral purposes. For the past years it has been the responsibility of the Joint Office to manage and dispose of these properties as per The Land Disposal Act (Chapter 88).

Many of the ex-Church properties have been disposed of through a sale, with Government being allocated the price that it paid at the time of the agreement, and the rest of the funds being granted to the Foundation of Church Schools. This is being done as per Article 7 within the Agreement, that states:

1. If in any future alienation of property transferred to it by virtue of the present Agreement the Government shall realize a price exceeding by more than thirty per centum - after taking into account inflation calculated according to the index published in terms of Ordinance XIXA of 1959, as subsequently amended -, the amount paid to the Church for the same property, the Government shall issue to the Foundation for Church Schools bonds of the same tenor as those mentioned in article 6, of the nominal value equal to the difference between such price and the figure resulting from the sum of the amount already paid to the Church, increased by the rate of inflation that might have intervened, and of thirty per centum of the amount so calculated.
2. What is laid down in paragraph 1 of this article shall apply for a period of thirty years, from the date of the coming into force of the present Agreement.
3. (a) The Government (Land Department) shall, within the thirty-first day of March of each year, supply the Maltese Episcopal Conference with the list of transfers, made during the preceding year to third parties, of property acquired by the State in virtue of the present Agreement.  
  
(b) Within the thirtieth day of June of each year, the Government shall pay to the Foundation for Church Schools whatever amount shall be due to it, on account of the transfers effected during the preceding year, in application of what is laid down in paragraph 1 of the present article.

This has resulted, in the majority of cases, in an increase of Government's deficit from the successful sale of such land. This perverse result emanates from the fact that property has appreciated at an exponential rate since 1991, whilst the index of inflation has increased at a substantially lower rate.

In fact, a recent proposal for the sale of a parcel of land with a current market value of €950,000, resulted in Government's share from such proceeds amounting to a mere €34.31, with the rest as a direct increase in Government deficit at an interest rate of 7%.

The GPD Tender Committee feels that, in such cases, and in order to maximise Government revenue, when a request is received to purchase the said property, or redeem the ground rent on the property, the Committee is to proceed as per the following guidelines:

1. As a general principle, Government Property granted to the State through the Church State Agreement is not to be sold until the expiration of the above stated condition of this agreement, ie 29th November 2021;
2. Emphyteuta that have been granted a property on Temporary Emphyteusis, which falls into the categories approved for sale in Part I of this document, may be given the option to have this emphyteusis converted into a Perpetual Revisable Emphyteusis;
3. Those who either have no legal title on the property being requested, or hold the property on lease, may be given the option to be granted a Perpetual Revisable Emphyteusis (if this property falls within the categories approved for sale in Part I of this document);
4. Those properties of a commercial nature, or virgin land, which are vacant, held on lease or already held on Temporary Emphyteusis are not to be considered for the grant of a Perpetual Revisable Emphyteusis, but will be given the opportunity to extend the / be granted a Temporary Emphyteusis on the site;
5. Ex-Curia property offered in exchange for expropriated land is to be granted on a Revisable Perpetual Emphyteusis;
6. Commercial properties that are subject to an emphyteusis that is greater than 50 years is to be considered for the grant on a Perpetual Revisable Emphyteusis; The following is to be noted:
  - When such an Emphyteusis is converted from a Temporary one into a Perpetual Revisable Emphyteusis a new rate is calculated. This reflects the current (at the time of conversion) market value of the property.
  - The ground rent will be revisable as follows:
    - Every 5 years, according to the index of inflation, as is normal practise;
    - Every 15 years according to the Property Index or the index of inflation, whichever is highest at the time of revision.
  - Emphyteuta will be given the option to redeem the ground rent not before the first fifteen (15) year revision, notwithstanding Government Notice No 37 published in the Government Gazette of the 15<sup>th</sup> of January 2008. This time period will allow for the expiration of the Church State Agreement and the conditions imposed to Government by means of this agreement thus ensuring that all income is granted to Government;

Your direction is therefore requested on the following:

- Residences, Summer Residences and garages adjoining residences, as well as garages that are not being used for commercial premises are to be considered for sale as is normal practise and as established by schemes which are put in force from time to time;
- Commercial properties are not to be considered for sale (exceptions may apply);
- Ex-Church property will not be considered for an outright sale until the 29th of November 2021 (upon expiration of the financial obligations of the Church State Agreement); however the Department will consider the grant of these properties, which fit the criteria mentioned above, on a Perpetual Revisable Emphyteusis, which will grant the emphyteuta the opportunity to redeem the said emphyteusis after the expiration of a 15 year period from the date of the grant of this emphyteusis;
- Commercial property granted on Temporary Emphyteusis cannot benefit from this conversion.

Kind regards

Mr Iman Schembri

Director General

Government Property Department

cc Mr Alfred Camilleri – Permanent Secretary